United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, WEDNESDAY, JUNE 2, 2004 *No. 75*

Senate

The Senate met at 9:46 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

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

Let us pray.

Master of our hopes and dreams, who constantly works for the good of those who love You, teach us to strive for integrity. Remind us that You call us not to success but to faithfulness. Inspire our lawmakers today with a commitment to be true to You and to serve Your purposes. Let not discordant notes mar the melody of their labors as they seek Your counsel and wisdom. Bless their families and all who come within the circle of their influence. Prosper the works of their hands, until the kingdoms of this world become the springboard for Your eternal reign. Guide our great Nation. Help it to be a lighthouse to a dark and turbulent world. Protect our military in its arduous work. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK 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, June 2, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from the great State of Arizona is recognized.

SCHEDULE

Mr. KYL. Mr. President, this morning, the Senate will conduct a period of morning business for up to 60 minutes, with the Democratic leader or his designee in control of the first 30 minutes and the majority leader or his designee in control of the final 30 minutes. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill.

Chairman WARNER and Senator LEVIN will be here all day, working through amendments. As the leader announced last night, we were able to lock in a finite list of first-degree amendments to the bill, and Senators are encouraged to work with the bill managers so we can finish this bill this week or early next week.

On behalf of the leader, I remind Senators that the Senate will stand in recess from 12:30 p.m. to 2:15 p.m. to accommodate the Democratic policy luncheon, and that at 5 p.m. there will be a reception honoring Senators AKAKA, HOLLINGS, INOUYE, LAUTENBERG, STEVENS, and WARNER, who are all veterans of the Second World War. We will devote the hour prior to the reception for speeches honoring their service.

ORDER OF PROCEDURE

I now ask unanimous consent that there be a period of morning business today from 4 to 5 p.m., with the time equally divided between the two leaders or their designees.

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

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from the great State of Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that for the time the Chair will shortly announce dealing with morning business, Senator DAYTON be given 15 minutes and then I will yield 10 minutes to Senator STABENOW.

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 will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

Under the previous order, the Senator from Minnesota is recognized.

COST OF PRESCRIPTION DRUGS

Mr. DAYTON. Mr. President, when I was in Minnesota last week, I read a very disturbing news report about the

cost of prescription drugs in this country. The American Association of Retired Persons Public Policy Institute looked at the prices charged by the manufacturers of 197 brand-name prescription drugs most widely purchased by Americans. Last year, their average price increase was 6.9 percent, over three times the overall inflation rate of just 2.2 percent. From December of 1999 to December of 2003, for 155 of those drugs on the market during all 4 years, their prices increased by a cumulative average of 27.6 percent compared to the general inflation rate of just over 10 percent. That is a price increase of over 2.5 times the overall inflation rate during the past 4 years.

It is not as though those drug prices were low at the beginning. Last summer, my staff compared the retail prices of 52 leading prescription drugs in the United States and Canada. For exactly the same drug, same amount, same strength, made by the same company, prices in Canada were one-third, one-fifth, even one-eighth the prices in the United States. That was after factoring out the different values of the U.S. and Canadian dollars. So in an apples-to-apples comparison, prices for the exact same medicines in the United States were three times, five times, even eight times higher than prices in Canada. My study shows that Americans are being gouged by exorbitant prescription drug prices, and AARP's study shows that it is getting worse.

Those excessive and rapidly increasing prices afflict all Americans, not only senior citizens. This year, almost 12 percent of all the money Americans spend for their health care will go for prescription drugs. That is almost one out of every eight health care dollars. Over the past 6 years, prescription drug costs have been the fastest growing part of total health care spending in this country.

So if Americans are getting ripped off by the drug companies, and if the problem is getting worse, then certainly President Bush and Congress would do something about it, right? Well, last year, the President and a majority in the Senate and House did something, but they made things worse, not better. Let me restate that. President Bush and a majority in Congress made sure prescription drug prices could keep going higher and higher and hurt most Americans, which means more money and larger profits for the drug companies. President Bush and his friends in Congress helped the rich get even richer, while making the rest of America poorer.

How did they do that? Well, on the prescription drug bill that was passed last year, the final version that most of my Democratic colleagues and I voted against, Federal health care officials are expressly prohibited from negotiating or in any way affecting the prices being charged for prescription drugs. When prescription drug coverage, inadequate as it will be, fully begins in the year 2006, the people on Medicare will be buying over half of all the prescription drugs purchased in America. Most of those bills will be paid at least in part by the Federal Government with taxpayer money at whatever prices are charged.

Imagine if you had to pay whatever someone else decided to charge you. You couldn't negotiate. You couldn't refuse to pay above a certain price. You would have no say; you would just pay. And you would pay and pay and pay.

No wonder a bill that was supposed to cost taxpayers $400 billion over the next 10 years is already projected to cost over $541 billion, a $141 billion increase, and the program has not even begun yet. I guarantee the program's cost will run even higher than that, as long as that prohibition against price negotiating is in law. It is a license to exploit Americans, all Americans, since all Americans will have to pay those higher prices.

Conversely, if Federal officials negotiated lower prices for Medicare beneficiaries, some, most, or even all of that price reduction would affect the prices the rest of us have to pay for those medicines. Drug company lobbyists and their friends in Washington call this price fixing and claim the Federal Government would destroy profitability, end research and development, and even cause bankruptcies. Nonsense. The Federal Government can't force any vendors to sell their products or services below prices acceptable to them. It can't legally—except in a national emergency—it doesn't try to, and it should not want to.

Take the Pentagon, which is often the only legal buyer of many of its products or services. It doesn't dictatorially set some price and require some company to make a product and sell it at that price. The Pentagon or the service branch purchaser might put the contract out for competitive bids or, if there is only one suitable provider, the Pentagon or military officials would sit down with the company officials and they would negotiate, truly negotiate, a mutually agreed-upon price.

Is that price as high as the company might charge if the company could set the price as high as it would like? No, probably not. Would the company agree to a price so low as to be unprofitable? No, definitely not. Does the Pentagon even want that low price? No, because if that company doesn't make a profit, it won't be around to keep producing that product or other products.

Those national defense projects frequently require extensive research and development, then testing, then modifications, and then more testing, requiring often several years before the actual production and sales can begin. Those costs—research and development, testing—are made part of the contract, usually paid in advance of production, and often revised upward if unforeseen circumstances develop. The Federal Government is a partner in those endeavors and vested in their positive outcomes while still being, hopefully, a responsible purchaser, assuring that taxpayers get their money's worth.

Would anybody here believe the Pentagon should be prohibited from negotiating the prices it will pay for what it needs, that it should be required to pay whatever prices its suppliers decided to charge? That would be ridiculous and scandalous, as it should also be for prescription drugs.

That part of the new law would be bad enough for most Americans just by itself. But the Bush administration and its congressional allies were not done helping their friends in the pharmaceutical industry. In our economic system, if the price of something becomes too high, you can shop around for a lower price elsewhere.

I come from a retail family. My great-grandfather opened a department store in Minneapolis in 1903. My father and uncles and thousands of Minnesotans and other Americans built the company into Target Corporation, now the country's second largest retailer after Wal-Mart. Retailers, especially discount retailers, understand competition. They expect their customers to be looking for lower prices, better deals, and higher value elsewhere. They don't go to the President or to Congress and say: Make Americans buy from us at whatever prices we charge and prohibit them from buying anywhere else.

That is what the drug companies wanted. That is what President Bush and a majority in Congress gave them. They banned what is being called drug reimportation, which is actually a bit of a misnomer because many prescription drugs are made outside of the United States and then imported into this country. In fact, over $14 billion worth of those prescription drugs were imported legally into the United States last year and sold to us at the manufacturer's prices. Neither the FDA nor the companies objected as long as that massive drug importation was occurring at their high prices. But many Americans objected to paying those prices, and many other Americans couldn't even afford to pay them.

So they want to do what Americans can do in almost every other situation in our economy—shop around for lower prices and buy them where they can find them. Lower prescription drug prices can be found in Canada and in other countries. The prices are much lower in Canada, as I said earlier, for the same product made by the same company.

Some Americans can actually travel to Canada because they live near the United States-Canadian border. I donate all but $1 of my Senate salary to the Minnesota Senior Federation for bus trips into Canada to buy those lower cost medicines.

The Canadian Government allows pharmacists in that country to fill

only prescriptions signed by Canadian doctors, and that takes an appointment and time and then more time to get the prescription filled. Thus, when I went on one bus trip from central Minnesota into Canada and back, the entire round trip took us 19 hours—from 7 o'clock in the morning to 2 a.m. the following morning. That is what I call a long U-turn.

The average savings among the 40 seniors who were on the trip was over $250. Almost all of them bought more than one medicine, and most bought a 2 or 3-month supply so they would not have to make the trip so often. However, even a 19-hour round-trip bus ride is not an option for most Minnesotans and other Americans who live too far from Canada and are not able to make such a trip. The Internet is their ticket, and many more Americans are discovering that possibility. They are discovering they can save hundreds, even thousands, of dollars when buying prescription drugs over the Internet. Thus, many Americans—especially our senior citizens—can then afford to buy medicine they would otherwise have to forego at the higher U.S. prices.

You would think our Federal Government—which, after all, is supposed to be a Government of, by, and for the people—you would think the people elected, appointed, or hired to serve the people, and being paid by the people to do so, would want to help the people save lots of money. But, again, that would mean less profits for the drug companies—still very high profits, but less very high profits.

Yet, incredibly, inexcusably, for this administration and the majority in this Congress, higher drug company profits are more important than everyone else in America. So they made it illegal to buy prescription drugs outside the U.S. and bring them into this country, unless the Secretary of Health and Human Services guarantees their safety—which he already said he will not do. If the Secretary of Transportation had to guarantee in advance every commercial airplane trip would be safe, it would put an end to air travel as well.

President Bush and Congress could have written the law to require the Secretary and his huge agency to help people make safe purchases over the Internet, as, to his credit, the Governor of my State of Minnesota, Tim Pawlenty, has instructed our State Department of Health to do. Hopefully, he will not be arrested by the Federal Government for providing that help. If he is, I promised to help him make the bail.

But with this administration and with the majority in this Congress, there is no help for Americans with the overpriced prescription drug costs, except for another drug discount card, which, in Minnesota, is now a choice of 1 out of 48 possible cards for a discount on some drugs we now learn from AARP have increased a total of over 27 percent in price over the last 4 years, which means they can offer a discount and still make more money.

When this bill was passed by a majority in the House and Senate last year, after the Bush administration and the industry lobbyists had written a bill in conference committee so very different from the earlier Senate version—which I supported—I was left with two questions:

First, how could people vote for a bill they knew did not represent their constituents' best interests? Secondly, how did they assume they could do so and still get reelected?

Americans don't deserve the highest, by far, prescription drug prices in the world—allowed to go even higher and higher. Americans should not be forced to pay those exorbitant prices and be prohibited from buying their medicines at much lower prices elsewhere. America's senior citizens don't need another 48 discount cards to choose from. They all need, and deserve, to be able to go to their neighborhood pharmacies everywhere in their country and buy prescription medicines at prices comparable to the rest of the world.

That is what governments of other countries assure for their citizens. That is what our Government should do for our citizens. When Government officials don't serve the best interests of the people, they should no longer be Government officials. That is why we have elections.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Michigan is recognized for 10 minutes.

Ms. STABENOW. Mr. President, I first thank my colleague and friend from Minnesota for his eloquent remarks today. I certainly agree with the sentiments he has expressed. I personally thank him for his personal commitment and willingness to help fund ways for people in Minnesota to be able to lower their prescription drug prices. I think that speaks to his personal dedication and willingness to do whatever he can to help.

Ronald Reagan asked the question back in 1980, ''Are you better off than you were 4 years ago?'' When it comes to the issue of prescription drugs and the cost of medicine today, certainly the answer to that is no.

I rise today to discuss the new Medicare Drug Card Program, as my colleague and friend from Minnesota has done. Yesterday, Tuesday, was the first day these cards could be used. But by any measure, this attempt to lower drug prices has been a complete failure. We can do much better. We can give our seniors real savings if we make the commitment to do that. Simply put, when it comes to Medicare, we need to do it again and we need to get it right.

From the beginning, the drug card was designed for the pharmaceutical companies and not for our seniors. That is one of the reasons why there is an estimate that the drug companies will receive over 8 years $139 billion in new profits because of the new Medicare law.

That doesn't add up if the purpose is to lower prices for our seniors. Obviously, $139 billion in new profits demonstrates this is not about lowering prices. First, because the law provided no guarantee and no guaranteed savings for seniors, drug companies were free to inflate their prices before the discount cards were issued. Therefore, companies were free to raise their prices in the last year or two in excess of any possible discount seniors might receive from these drug cards. In fact, the prices of 14 of the top 30 brand-name drugs rose more than 5 times faster than the rate of inflation from 2003 to this year, virtually wiping out any discount a senior might receive from one of these Medicare cards. That is like a department store taking up its prices 50 percent and then putting a sign out front that says 25 percent off. If you think about it, you are not going to save any money; you are actually paying more.

Second, the new law gives the companies that distribute the Medicare cards complete flexibility to change their prices every 7 days but forces seniors to lock into one card for an entire year. That means you might pick a particular card because it offers you a lower price on medications that you take, and then in 7 days, maybe even before you use the card, the price of that drug has gone up or two or three of the drugs you are taking have gone up. That might make the card absolutely useless, even though seniors may have to pay up to $30 to sign up for the card.

Also, we know that every 7 days the discounted drugs can be changed. So you wade through all of these cards, over 70 cards, to figure out the one that covers the most medicines you use and provides you some kind of help with lower prices. You purchase that card. You spend $30. You purchase a card, you lock yourself in for a year, and then you find out 7 days later the drugs you use are no longer on the list. Who does that benefit? Who is better off under this Medicare bill? Certainly not our seniors. We can do much better. We need to do it again and do it right. This new Medicare bill needs a complete overhaul.

There are two ways we can lower prescription drug prices for seniors and all Americans if we do this right. We have two ways right now we can fix this situation. First, we simply need to pass bipartisan reimportation legislation supported by people on both sides of the aisle in both the House and the Senate. We have a very strong bipartisan coalition to allow Americans to buy American-made FDA-approved drugs from other countries such as Canada. All of us could then save much more on prescription drugs than the small savings from the Medicare drug cards.

Second, we can and should allow Medicare to negotiate directly with the

drug companies on behalf of our seniors and the disabled to get the lowest possible price.

Why on Earth wouldn't that be the first thing we would do? Right now States, Fortune 500 companies, large pharmacy chains, and the Veterans' Administration use their large bargaining clout to obtain low drug prices. Common sense says Medicare should be doing it.

Regrettably, the only entity in this country that cannot bargain for lower group prices is Medicare. Why? Who benefits from that? Who benefits from locking in up to 40 million people forced to pay the highest prices? Certainly not our seniors and the disabled.

Because the supporters of the drug industry in Congress at the eleventh hour inserted into the final Medicare bill a special interest provision that strictly prohibits Medicare from getting group discounts, our seniors are paying top dollar.

We know the drug companies are powerful. We know they have over six lobbyists for every one Member in the Senate. We can do better, and people expect us to do better than this new law and these cards.

If we want, we can provide real savings for Americans. I wish to point to charts to demonstrate with a couple of medications what the differences are.

Right now for Lipitor, which lowers cholesterol, if we were to do a group discount, such as the Veterans' Administration does, our seniors would pay $40.55 for a month's supply. If we were to open the border to Canada and allow trade, as we do for everything else, back and forth between Canada and the United States, we would be able to get that price down to $35, from $40.55 to $35.04. However, if we continue with this current Medicare card, the low end is $64.67 up to $74.77. This makes no sense.

Right now people are being told to go out and sign up for a Medicare prescription drug card that will require them to pay more than we could get for them if we simply negotiated group prices or open the border to Canada.

Another demonstration: Norvasc, which controls high blood pressure. Again, with the VA, for a little over $25, you can get a month's supply; Canada, $28. But under the so-called discount card, it is anywhere from $41 to $49. These numbers just do not add up, and the seniors of this country, as well as all Americans who would benefit by opening the border and allowing us to do business across the border, are saying to us: Do it again, and do it right.

One more example: Protonix, which treats ulcers and other stomach conditions. If we were to negotiate a group price, as does the VA, the individual out of pocket would pay $26.83, and through Canada, $41.60. Under these new cards, they would pay from $86 to $108. It just does not add up. These numbers do not add up for our seniors or for anyone who is struggling to purchase medicine or to keep up with the incredibly high and rising prices of their health insurance because we know this is a major driver.

In conclusion, are you better off than you were 4 years ago under this Medicare law? We need to change it, and we need to get it right.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Michigan has been a leader on this prescription drug issue for the entire time she has been in the Senate. The country owes a debt of gratitude to her for being unrelenting in pointing out the need to reform prescription drug availability, especially as it relates to seniors.

I yield the remainder of the time to the Senator from Washington, Ms. CANTWELL.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, how much time remains?

The PRESIDING OFFICER. There is 3 minutes 45 seconds.

MARKET MANIPULATION AND ENERGY CONTRACTS

Ms. CANTWELL. Mr. President, I rise today to talk about something I have tried to address many times before in this body, and that is the issue of market manipulation and energy contracts specifically by the Enron company that have gouged my constituents for millions of dollars.

We have seen in the last couple of days as my own home public utilities district, Snohomish County PUD, was successful at getting audiotapes from the Enron company that showed exactly what people thought was happening: That people were talking about market manipulation, that people were talking about schemes, that people were making jokes about $250 megawatt costs and prices that were gouging my constituents on energy prices. Now we know this company has already been cited by the Federal Energy Regulatory Commission as having manipulated the markets; now we are hearing in their own voices, in their own words, among their own employees, that this manipulation was going on.

The question is, what are we going to do about the market manipulation that has happened and for which my consumers have been gouged? My own home, my own personal utility has had a 50-percent rate increase since the energy crisis took place. That means my constituents have been paying higher energy costs on Enron-manipulated contracts and other contracts during this time period.

One would think that once market manipulation had been admitted, once market manipulation had been documented that we would do something about the market manipulation. In fact, yesterday, the President said we must pass the Energy bill and we must protect consumers. I have a message for the President: This Energy bill does not protect consumers. In fact, it guarantees that the market manipulation which was done by Enron will continue because it basically says that manipulated contracts can be the standard for today. I think that is absolutely wrong. My constituents, in reports and analyses by California, Washington, and Oregon economists, have probably lost 100,000 jobs directly and indirectly from the energy crisis. We have lost a big percentage of our GDP. And we have had a huge increase in rates throughout the State.

So what does that mean? That means my constituents are still paying on those Enron contracts, and when our utilities said they were not going to pay, what happened? Enron turned around and sued utilities in my State. Enron is suing my consumers saying: You still have to pay on manipulated contracts.

Well, here is my check to Enron. Here is my $370.00 check that will still have to go to pay for that Enron contract in which they have admitted market manipulation.

I have already personally paid them hundreds of dollars on manipulated contracts. So have my constituents. The question is whether this body and this administration are going to do anything about market manipulation, whether they are going to stand up and say that the Enrons of the world have taken the consumer to the cleaners and are going to let my constituents out of these manipulated contracts.

So while the President would like to have an energy bill, I would like to have an energy bill that protects consumers. I would like to have an energy bill that passes both the House and the Senate where Members of this body and the other body stand up and say market manipulation is wrong and we do not condone any contract as just and reasonable or any contract as in the public interest if, in fact, it has manipulated, schemed, and put people out of their homes at a huge cost to many of the consumers in my State.

I yield the floor.

The PRESIDING OFFICER. The minority's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry. Are we now on the Republican morning business time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Thirty minutes.

Mr. DOMENICI. I have told those who follow me, I will try to get finished in 7 minutes.

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

ENERGY SECURITY

Mr. DOMENICI. Mr. President, over the weekend, the world witnessed the

horrible hostage-taking situation in Saudi Arabia, where terrorists attacked foreign oil workers and their families. I think we all know that foreign workers have been an integral part of the workforce that produces oil and maintains the infrastructure for oil in Saudi Arabia. These cowards did not attack refineries or terminals or pipelines this time. Those hard assets are supposed to be well guarded and could be replaced. I am not sure they are so well guarded. Instead, the terrorists chose human targets to cripple the world's access to oil supply. Thank God that about 50 of the hostages were rescued, but we mourn the more than 20 lives lost in this terrorist attack.

In the short run, this attack on foreigners and office facilities does not affect physical supply, but it can harm future output and expansion. Investment will be eroded if there is instability.

These terrorist attacks are a frightening warning that terrorists may be only steps away from destroying significant Saudi or other Middle East production facilities. I believe America should be more worried about that than anything else affecting our economic well-being.

It is actually a shame that we sit around and talk and do nothing to make America better prepared. Does anybody doubt that the terrorists, if they can get in and destroy an office full of people, are not prepared to do some real damage to the oil supply and the infrastructure, the tankers, and all the other things? I believe they are.

Terrorists' actions intensify concerns about the vulnerability of oil markets to supply disruption. We saw the price jump $2.45 following the weekend attack, and there are indicators in the future market that those who invest in that market are investing in it heavily, which means they are gambling in a forthright and intelligent way that oil will go up even more.

Instead of oil coming down because of good economic realities, the one thing that is happening is oil is going up. We saw that jump, and before the weekend attack, oil prices were back under $40, seemed to be moving a bit down in anticipation of the OPEC meeting on June 3.

Daniel Yergin, chairman of Cambridge Energy Research Associates, remarked that the signs of increased OPEC production were calming the market, but the weekend attack has again increased a sense of risk and nervousness that has done so much to propel the prices to $40.

Fears and worries of terrorist sabotage attacks and political unrest have translated into a risk premium of $7 to $10 per barrel. This so-called risk premium is one of the reasons why the prices are as high as they are today.

Given that we live in a world of increased risk, particularly with mounting security worries in the Middle East, it is imperative that we take responsible steps to ensure our energy security today and in the future. Today, our energy security requires an emergency supply of oil in the event of severe disruption. Saudi Arabia is the largest OPEC producer and the OPEC country with the largest extra capacity to increase supplies. A major disruption of Saudi oil that we cannot respond to with the SPR would harm our energy security and the economy far more than $40 a barrel of oil.

The President is right to preserve the Strategic Petroleum Reserve for times of dire need, not as a political gesture to abate high prices. And, yes, while prices are high today and they do hurt, today's prices are still below the energy prices America has borne in past years.

The SPR is designated and designed to be a national security asset, a national security blanket. It is not there to deal with supply and demand imbalance, which is the true source of higher prices.

What we have today is a long-coming trend of tightening supply and increasing demand. Changing our treatment of SPR cannot fix that problem. I fear that changing SPR policy will actually end up hurting us. What do my colleagues think OPEC would do if we suddenly changed SPR policy? From their standpoint, they could easily solve that by changing their output response. It would not take much, just a little bit, and they would negate any significant positiveness that comes from releasing SPR oil.

We have 660 million barrels of oil in SPR. We import 11.5 million barrels a day. About 5 million of those 11.5 million barrels a day are from OPEC. That means we have about 60 days' supply if there is a complete disruption to our imports and about 120 days' supply if only OPEC supplies were interrupted. SPR is not there just to deal with potential Middle East supply problems.

Weather forecasters predict an intense hurricane season for the Atlantic and gulf coasts, which would affect domestic and natural gas. As I see it, it is a shame that we are not ready to produce an energy bill and that we are still debating what this Senator likes, what that Senator likes, what the Democrats like. We have tried very hard to accommodate, but we cannot. SPR is our insurance policy against natural disasters as well as supply interruptions. We need SPR full and ready to serve in the event of an emergency. Past experience has taught us that trying to use it as a price control does not work. The bottom line is that changing our treatment of SPR does not lead to quick fixes in the market.

The energy bill that I have been fighting to pass in the Senate is about future energy security. The energy bill is not about quick fixes to the oil and gasoline market; it is a policy plan to move us into the future with a broader portfolio of resources and improved supply and demand balance. The energy bill will increase natural gas and domestic oil production that helps balance supply with growing demand.

The Energy bill will remove the 2-percent oxygenate mandate, which will make it easier to refine and easier for refineries to make gasoline that can be traded between regional markets. It is clearly very positive for America.

The Energy bill addresses the proliferation of boutique fuels. There are a number of State-specific gasoline formulations that have made refining more challenging and market efficiency poorer. The Energy bill will promote further research in hydrogen power that is the potential future for transportation. We have to get started. The longer we wait, the more we risk being blamed for an American disaster.

I will keep coming to the Senate floor to drive home the point that we need to pass an energy bill. Someone called today's energy situation ''a crude awakening.'' It is, indeed. It is time for us to wake up and do something about it. The American public deserves action. They deserve an energy policy that takes care of them today and in the future.

I believe there is a real probability that those who lead our country today, including the Senate—perhaps excluding those who have tried, those who have voted for a new policy—but I believe there is a chance that the leaders of today will be blamed for the disasters of tomorrow. They will not be little disasters if, in fact, we cannot stop the terrorists from their activity. I believe the leaders of Iraq are optimistic, and I am glad because they want terrorists out of that country. But terrorists are everywhere. Believe you me, they are in Saudi Arabia. Believe you me, that is fragile. Believe you me, they are looking at the fragileness of the Saudi situation. I believe they can almost do what they like. They are close. I understand they know what is going on in the oil patch of Saudi Arabia. I am very worried. Frankly, I don't want to go down in history, when this event happens, and have it said we did nothing. I will continue to try. Many in this body will continue to try to make America's energy portfolio more diverse, with different uses so we can face the future with a little more hope.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

NATO

Mr. SMITH. Mr. President, it is hard to turn on the television without seeing the stirring images of the Allied landings on D–Day. I think in the heart of every American there swells a pride in these scenes, and what was accomplished on that day truly stands as one of the most historic achievements in recorded history. I think what was on display on D–Day with our Allies was a commitment to freedom, a commitment to the rule of law, a commitment to humankind that has made this world a better place in which to live.

As I reflect on these images, which we will share with our European allies,

I am also, unfortunately, reminded of what I experienced this last weekend in Bratislava, Slovakia, at the NATO Parliamentary. It has been my privilege since being a U.S. Senator to participate in many NATO Parliamentaries. This time, the majority leader, Senator FRIST, asked me to chair our trip to this important meeting. It is the first time I have gone when I have been the only Senator in attendance. I hope that does not mean there is less of an interest in security. I think, unfortunately, what it means is the many claims on the time of Senators begin to compete with what is increasingly becoming regarded as an institution of diminishing value. I think that is unfortunate.

Before I left, I read a book by Robert Kagan. It is a small book, but its message is powerful and important. The title is ''Of Paradise And Power: America and Europe in the New World Order.'' Basically, the message is that the values that bring NATO together in the first place, the values that have held it together through the cold war, are values that are changing now and stressing NATO in ways that many are unwilling to face up to.

For the RECORD, I would like to read the first paragraph. I think it says very clearly the problem. Says Mr. Kagan:

> It is time to stop pretending that Europeans and Americans share a common view of the world, or even that they occupy the same world. On the all-important question of power—the efficacy of power, the morality of power, the desirability of power—American and European perspectives are diverging. Europe is turning away from power, or to put it a little differently, it is moving beyond power into a self-contained world of laws and rules and transnational negotiation and cooperation. It is entering a post-historical paradise of peace and relative prosperity, the realization of Immanuel Kant's ''perpetual peace.'' Meanwhile, the United States remains mired in history, exercising power in a anarchic Hobbesian world where international laws and rules are unreliable, and where true security and the defense and promotion of a liberal order still depend on the possession and use of military might. That is why on major strategic and international questions today, Americans are from Mars and Europeans are from Venus: They agree on little and understand one another less and less. And this state of affairs is not transitory—the product of one American election or one catastrophic event. The reasons for the transatlantic divide are deep, long in development, and likely to endure. When it comes to setting national priorities, determining threats, defining challenges, and fashioning and implementing foreign and defense policies, the United States and Europe have parted ways.

What we don't realize at an official level is how badly we have parted ways.

But what Mr. Kagan wrote, I observed in starkest and tragic relief in Bratislava, Slovakia. It was not all bad. I would describe what I saw, in the language of that great Clint Eastwood western—I think the Europeans would hate a reference to a western in a speech like this—but that title was ''The Good, The Bad, And The Ugly.''

There was much good. Let me tell you, for me, first and foremost was the good that the British representatives did. I say thank God for the Brits and for a strong leader like Mr. Blair. They continue to provide a bridge between an America and a Europe going in different directions. It is sometimes difficult for them, but their hearts are stout and their backs are strong and they are great Allies. They were on D–Day and they are still on this day.

Second, another good: The first meeting I attended was about the NATO-Russia relationship. The Russians made a presentation. It was great to be in a room where we were talking about issues in which Russia, though out of NATO, was able to communicate with NATO, express its feelings, its concerns. But then, after they made their presentation, some of the things they said caused me to wince. I was about to make a comment to contest a few of the points they had made, but I didn't need to. An Estonian did it for me, then a Latvian, then a Pole. They contested as equals—equals of Russia—things which they said were not the truth, not factual, not real, and certainly not the whole story.

It was thrilling to see. I asked myself as I watched this, Why is this happening? Why can an Estonian stand on equal ground with a Russian and debate as an equal? It occurred to me with great clarity: Because of the U.S. military's marriage to NATO and because the U.S. military continues today what it did from the founding, that visionary founding by Congress and Harry Truman; that is, to put actual bullets in our budgets to provide an umbrella of security for Europe that was credible to the Soviet Union. It was a thrilling thing to see.

I remember when I first came to the Senate and I was on the Foreign Relations Committee. I was given an assignment to help pass the first expansion of NATO, postfall of the Berlin Wall. Many of the questions raised were: What will this do to Russia coming out of communism, trying to come into the Western world? What will it do to a fragile democracy they are trying to build? Isn't this just cold war? And yet some of us said, while we respect those concerns, these new members—the Poles, the Czechs, the Hungarians—are needed for new blood in NATO because we were getting stale and we needed their input. We needed someone in membership to understand what the boot of tyranny on the back of the neck was like, and they did, as we all know.

We won that debate. The vote was large. It was lopsided. But it took a lot of work to make that argument successful. We did succeed and NATO was expanded indeed through these countries, each of which had suffered greatly under the Soviet Union at various times when they had uprises.

But now I have to say that what we promised would happen in these countries has actually occurred. You have Slovakia, the Czech Republic, and Romania. These are not perfect democracies. But guess what they are. They are now democracies. They are pursuing the rule of law. They are allowing free enterprise. They are developing emerging middle classes. They have become job magnets for European capital. They are joining the European Union. They are now part of the free world. And the lever was NATO. But that is the good.

Now I have to tell you what I thought was bad.

Two reports were given on Saturday. They were not my reports. One was made by a German and one was made by a Frenchman.

The first report was about the post-9/11 commitment that NATO had made with respect to Afghanistan. You will remember the only time article V has ever been invoked was after 9/11. We had been attacked. Article V says if member countries are attacked, it is an attack on all.

In response to that attack and the issuance of article V, NATO was supposed to go to work. And they made commitments, according to this report, of things they would do in Afghanistan.

According to the report which I listened to, it was readily admitted that a reasonable attempt was made at the first commitment and that the other three were not even attempted and were utter failures.

That is what their report said. That is what I heard.

They went on to cite the fact that helicopters were needed. Lift was needed so their soldiers could actually participate, but that the member countries of NATO wouldn't send any helicopters. The troops they were sending came with such operational restrictions by their governments that all they could do was defensive work. They couldn't help in the war. They were restricted by their governments from making a contribution.

Let us say the Americans were fired upon. They couldn't help. If they were fired upon, they could fire back. That is what the report said. I was stunned to hear it. But that is what I heard—four commitments; three were utter failures and one attempt.

The next report was made by a Frenchman who talked about the exciting development in the European Union to develop a European defense initiative in which they would develop rapid response forces that could do what he described as ''St. Petersburg tasks.'' Lipservice was given that this could be done with NATO. But when you consider what was supposed to be done with NATO in fulfilling the earlier commitments, these St. Petersburg tasks had nothing to do with that and were completely unrelated to what NATO needed them to do.

What I heard bad was there was soaring rhetoric, everybody there talked about their superpower, and everybody knew their budgets. While this rhetoric was going north, their budgets were heading south. It was scary.

I made the comment that if they were going to fail in their first responsibility and divert limited resources to

a new initiative connected to the EU and leave NATO hollow, that would have a serious negative impact on America's commitment to NATO—and it certainly would to this Senator's commitment to NATO. There was just quiet when I responded in that fashion.

The French reporter who was making this report about the new European defense initiative noted how critically poor America was at peacekeeping, and what a poor job we do at rebuilding a country. I never thought that was true with Japan or Germany.

Then a Brit responded to him. She said she had recently been in Bosnia and it is fact that NATO is going to turn over its operational responsibilities in Bosnia to this European force. She said she heard the Kosovars said, We don't trust the EU, we trust the Americans, which certainly flies in the face of the charge that we are no good at peacekeeping. I thanked her for noting what I did not have to say. The Kosovars and the Albanians believed their freedom came from American efforts—not European Union efforts.

Those are the bad things. Let me tell you about the ugly things.

When I left on Sunday to fly home, I reflected upon 9/11 and the article V guarantee that had been issued and how the European Union had not been able to, or our members in Europe had not able to, fulfill their Afghan responsibilities. I thought about how unfair it was to mothers of American troops, and we as a government have said credibly so that Estonians can talk to Russians as equals that if they are attacked we will go to war—thermonuclear war, if necessary. But if the United States is attacked, the response in Afghanistan—a NATO commitment—has been we will apply defense for ourselves, and we will fall short of fulfilling our promises.

That is the first ugly thing—the first ugly realization I left with.

The second was this: I heard from country after country in Central and Eastern Europe how they were being pressured as new members of the European Union not to be cooperative with America on security issues.

That makes me angry. I think that is really ugly.

I was reminded of the Commissar about a year ago when these new NATO members put an article in the Wall Street Journal saying they stood with America on the war on terrorism and the President of the French Republic fearing these new countries would be a Trojan horse for the Americans and a challenge to the Franco-German leadership of Europe that was opposing the American effort—that somehow they had not acted ''well-born.'' Those are his words.

He went on to add, warning: I was sad to learn, that is being administered in subtle but powerful ways to these new EU members. He said it could cost them membership in the EU. It has not done that.

Then Chirac said:

> Beyond the somewhat amusing or childish aspects of the matter [the matter being the letter of support in the Wall Street Journal] . . . it was dangerous. It should not be forgotten that a number of the EU countries will have to ratify enlargement by referendum. And we already know that public opinion, as always when it's a matter of something new, have reservations about an enlargement, not really seeing exactly what their interest is in approving it. Obviously, then, [what the central Europeans have done] can only reinforce hostile public opinion sentiments among the 15 and especially those who will hold a referendum. Remember that all it takes is for one country not to ratify the referendum for [enlargement] not to happen. Thus, I would say that these countries have been, let's be frank, both not very well brought up and rather unconscious about the dangers that too quick an alignment with the American position could have for them.

I conclude with the words of Edmund Burke, that nations have no permanent friends, only permanent interests. I also remember the words of Isaiah to ancient Israel, not to lean on a weak reed.

I say to the American people, NATO is not dead, but it is in trouble. As politicians promise you relief through internationalization, I ask the American people to consider reality, deeds, not words and empty budgets.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

BUILDING A BETTER FUTURE

Mr. DASCHLE. Mr. President, I will use leader time this morning to comment about a number of matters.

I return, as most Members have, from our home States, and I feel a new sense of optimism about what we can accomplish in America for the remaining months of this Congress.

I had the opportunity to visit with South Dakotans of all ages when I was home. I was reminded during those conversations of the hope and resilience that characterize Americans, even in difficult times. The people I talked with spoke frankly about the serious challenges we are facing, but they also expressed a belief that together we can overcome those challenges. And they are right. Their sense of resolve is a great reminder for us all.

When we left Washington for Memorial Day recess, the Senate had ended 5 weeks of procedural wrangling that left many of us frustrated. We accomplished much less than we should have in those 5 weeks. What we did accomplish, though important, took far too long. Remarkably, when we finally did reach agreement on a couple of key issues, some influential voices actually complained. Why? Because bipartisan progress does not suit their political strategy. They would actually prefer Congress do nothing between now and November because they want to blame Democrats for inaction.

When we left for the recess, I was seriously concerned that such political gamesmanship in the Senate could result in a lot of name-calling and finger-pointing this summer but very little progress for the American people. We owe our country more than that.

On Memorial Day, I spoke at a ceremony at a veterans cemetery in my hometown where my father is buried. There were veterans there from my father's war, World War II, from Vietnam, Korea, and the Persian Gulf conflict. There were guests who have friends and family members today serving in Afghanistan and Iraq.

Yesterday I spoke to about 500 young men who were attending Boys State in South Dakota. This is the 35th anniversary of my own week at Boys State. The young men who are part of Boys State this weekend are among the best and brightest in my State. They are there because they are natural leaders. They care deeply about the future of our country. Some of them will no doubt join the military. From the oldest veterans at the cemetery to the youngest delegates at Boys State, the people I talked with at home reminded me Americans have always done what was needed to be done to make a better future.

Congress can do the same now. These are difficult times economically for the middle class. The last time we found ourselves in the situation like this was in 1992. Then, as now, the monthly bills were getting bigger but wages were not keeping up. Then, as now, we were told the economy was getting better. But whatever ''recovery'' there was did not seem to be reaching the middle class. Then, as now, there was a feeling that leadership was out of touch with what was going on in most of America.

But then, over the next few years, the leadership in Washington, our Government, started putting the interests of the Nation ahead of special interests. We focused on creating jobs and reducing crime and balancing the budget. With the help of the American people we did all three.

Between 1992 and 2000, 22 million new jobs were created. We lowered the crime rate and turned record deficits into surpluses. We restored strength to America's economy and strengthened America's leadership position in the world. We worked with our allies and NATO to confront a ruthless dictator in Europe who was engaged in ethnic cleansing and ended his brutal reign. A victory in Kosovo proved how successful we can be with our friends when we work together and share the burden confronting global threats.

The situation today may be a little tougher and the solutions may be more complex, especially on the international front, but the fundamental truth remains. Americans still know we can work our way out of this. That is the sentiment I heard back in South Dakota. We have done it before; we can do it again.

I am confident the American people will rise to the challenges of today as

well. And we need to meet those challenges with them. We must make the needs of hard-working Americans a higher priority than passing more tax breaks. Congress must put the well-being of patients ahead of the profits of HMOs and drug companies so we can finally address the health care crisis in a meaningful way. We must return to a foreign policy that recognizes the value of listening to military leaders and working with all of our allies.

These are commitments the American people want from this Congress. In recent weeks, we have gotten a glimpse of what we can accomplish if we put aside politics and focus on the larger task at hand.

Two weeks ago, for example, we had a promising bipartisan development regarding the transportation bill. After several disappointing experiences with conference processes last year, we have reached a good-faith agreement on how we can proceed with the transportation conference. I am hopeful we can get a good bill to the President soon.

There are some people who think Congress should do little or nothing more of any consequence before we adjourn in October. They see political advantage in gridlock. We need to reject cynical calculations such as these. Doing nothing may be good for some people's political campaigns, but it does not do good for America. It is not good for the millions of middle-class families looking to Congress for help with real and every-day needs. We cannot wait until the new Congress is sworn in next January. We need to be working together now.

Last week I participated in my fourth annual Technology Summit, which has become now an annual event in Sioux Falls. Bill Gates and other technology industry leaders spoke. About 1,000 people came to hear how new discoveries in science and technology can help solve even the most seemingly intractable problems.

One of the people at that summit was a brilliant 29-year-old neuroscience researcher who got his Ph.D. at the University of South Dakota and is doing breakthrough work unlocking the secrets of the human mind. If he can learn how the human mind works, surely we can find a way in this Senate to work together on the challenges facing America.

If young people are willing to go to war for America, surely we can agree to call a political truce in the Senate for at least the next several months so we can deal with some of the real problems facing middle-class families.

As my fellow South Dakotans reminded me over and over again last week, we have met the challenge of difficult times before. Together we must do so again.

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

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

NATIONAL GUARD

Mr. NELSON of Florida. Mr. President, as we are waiting for some of the deliberations on the Department of Defense authorization bill, I thought it might be worthwhile to call to the attention of the Senate an amendment I will be offering at a later time having to do with our National Guard.

The National Guard has performed magnificently, heroically, and with great professional skill, as well as patriotism. When I wore the uniform of this country as a member of the U.S. Army Active-Duty back in the late 1960s, the National Guard was a much different creature. Today, as the Presiding Officer so well knows, the National Guard is, in many cases, as skilled as, if not even more skilled in particular skills, the regular Army. Thus, when we encounter a threat to the interests of the United States and have to respond abroad, as we have both in Afghanistan and Iraq—especially in Iraq but before that in the Balkans—the National Guard is called on to supply so many of those troops.

My wife and I make it a point on holidays such as Thanksgiving to have Thanksgiving dinner with troops in different parts of the world. One time we found ourselves with our troops in Bosnia. At that particular point in one of those camps out in the fields where we had that Thanksgiving dinner, of that entire U.S. military force, which was our ninth year in Bosnia helping stabilize that place from the fratricide and killing that occurred there before, lo and behold, who were those troops? Those troops were the National Guard. In that particular case, it was the National Guard unit from Pennsylvania. They knew they had a 6-month tour of duty and then they would go home—remember, the National Guard members have their civilian jobs, and what they signed up for also encompasses if there is an emergency in their State, they are under the control of their Governor.

Now we find that we have entered a new era in which we are stretched to the limit on our regular Army troops and almost as if it is an expected thing of replacing regular Army with National Guard. Of course, something is going to have to change, and I think the head of the National Guard and the head of the Reserves are addressing this because they are quite concerned that over time, they are going to see people not reenlisting in the Reserves and the Guard, and in order to compensate for that and encourage that, I think we are going to see our military leadership is going to be setting forth an agenda where Guard and Reserves would have a more certain anticipation that within a period of years, say, 4 years, they would serve a number of months of active duty. I hope that is going to solve some of the problems; otherwise, people might be voting with their feet as they leave the National Guard.

The thrust of my remarks is to tell about when the National Guard is activated, as it has been very heroically from my State—the Florida National Guard was, in fact, in Iraq before the war started. We went in there with special operations troops, and they have performed magnificently. Initially, they thought they were going for 6 months. Then they understood 12 months. But in some cases, they were extended to 14 and 15 months.

So in those long deployments, what happens back home? The families are anxious naturally. The families are usually without the primary breadwinner in the family. The families—the remaining spouses and the children—are often facing a new kind of not only emotional problems but financial problems, not even to speak of the question of the financial situation facing the employer back home.

What should we do? Talk to any National Guard commander and he will tell you that a most important support for those families is the Family Assistance Centers. We have them all over the country. They did not used to get nearly the attention they do today because when fully implemented, when fully funded, when giving the attention to the families back home while their loved ones are abroad, they are giving them counseling, they are helping them get proper counseling on financial management, and they are serving as a center point for networking among the other National Guard families while their loved ones are deployed overseas.

Thus, last year, when we had this very same bill on the Senate floor, the Department of Defense authorization, I offered an amendment, and it was accepted, providing $10 million for these Family Assistance Centers. This is $10 million out of a $400 billion-plus DOD authorization bill. It was accepted. A lot of that $10 million has not been allocated in the last year. Lo and behold, we are seeing some resistance to doing the same thing.

I wanted to give notice to the Senate that coming up will be my amendment authorizing $10 million for Family Assistance Centers for our National Guard families at home. It is one of the least things we can do because it has been so effective. It has been so effective over the course of the past year. But right now, they are anticipating that they are not going to have those resources because they are not in the National Guard budget. I want to make sure it is going to be in the National Guard budget.

I yield the floor, and 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. WARNER. 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. WARNER. Mr. President, the distinguished majority leader, the distinguished Democratic leader, the Democratic whip, myself, and other Senators have worked out this agreement that I now ask unanimous consent to be considered by the Senate.

The PRESIDING OFFICER. Will the Senator suspend for a moment, please. The Chair has some business to conduct. I apologize.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Graham of South Carolina amendment No. 3170, to provide for the treatment by the Department of Energy of waste material.

Crapo amendment No. 3226 (to amendment No. 3170), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am presenting this unanimous consent request, together with the distinguished Senator from Nevada, who will comment on it as soon as I have completed reading it.

I ask unanimous consent that the pending amendments be temporarily set aside, and that following this consent, Senator DASCHLE be recognized in order to offer an amendment related to TRICARE. I further ask unanimous consent that when the Senate resumes the Defense bill on Thursday morning, tomorrow morning, the Senate proceed to a vote on adoption of the pending Crapo amendment No. 3226, to be followed by a vote on the adoption of the underlying amendment No. 3170, as amended. I further ask unanimous consent that Senator CANTWELL be recognized to offer an amendment related to nuclear waste, and that there be 4 hours for debate equally divided in the usual form; provided further that following the use or yielding back of time the Senate proceed to a vote in relation to the Cantwell amendment, with no amendments in order to the amendment prior to the vote—before the Chair rules, I would announce it is my understanding that the pending Graham and Crapo amendments would not require rollcall votes and would be accepted by voice—provided further, I ask unanimous consent that following the disposition of the TRICARE amendment, the Senator from Virginia, Mr. WARNER, be recognized in order to offer an amendment related to the $25 billion contingent fund requested by the President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. 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. 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. There is a unanimous consent request pending.

Mr. WARNER. I renew the request as stated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. I thank my colleagues for making this possible.

I yield the floor, and 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. GRAHAM of South Carolina. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 3258

Mr. GRAHAM of South Carolina. I ask unanimous consent I be allowed to offer the TRICARE amendment, and I send it to the desk at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself and Mr. DASCHLE, proposes an amendment numbered 3258.

Mr. GRAHAM of South Carolina. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend title 10, United States Code, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes)

Beginning on page 134, strike line 18 and all that follows through page 141, line 12, and insert the following:

SEC. 706. EXPANDED ELIGIBILITY OF READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) UNCONDITIONAL ELIGIBILITY.—Subsection (a) of section 1076b of title 10, United States Code, is amended by striking ''is eligible, subject to subsection (h), to enroll in TRICARE'' and all that follows through ''an employer-sponsored health benefits plan'' and inserting '', except for a member who is enrolled or is eligible to enroll in a health benefits plan under chapter 89 of title 5, is eligible to enroll in TRICARE, subject to subsection (h)''.

(b) PERMANENT AUTHORITY.—Subsection (l) of such section is repealed.

(c) CONFORMING REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended—

(1) by striking subsections (i) and (j); and

(2) by redesignating subsection (k) as subsection (i).

SEC. 707. CONTINUATION OF NON-TRICARE HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN RESERVES CALLED OR ORDERED TO ACTIVE DUTY AND THEIR DEPENDENTS.

(a) REQUIRED CONTINUATION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

''§ 1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty

''(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for the members of the family of an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (j).

''(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

''(2) For the purposes of this section, the members of the family of an eligible reserve component member include only the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

''(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for the members of the family of a reserve component member called or ordered to active duty is qualified health benefits plan coverage if—

''(1) the coverage was in force on the date on which the Secretary notified the reserve component member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

''(2) on such date, the coverage applied to the reserve component member and members of the family of the reserve component member; and

''(3) the coverage has not lapsed.

''(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage for the family members of a reserve component member is the amount of the premium payable by the member for the coverage of the family members.

''(e) MAXIMUM AMOUNT.—The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for the family members of a reserve component member under this section in a fiscal year may not exceed the amount determined by multiplying—

''(1) the sum of one plus the number of the family members covered by the health benefits plan, by

''(2) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

''(f) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation

period under this section for qualified health benefits plan coverage for the family members of an eligible reserve component member called or ordered to active duty is the period that—

''(1) begins on the date of the call or order; and

''(2) ends on the earlier of—

''(A) the date on which the reserve component member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section; or

''(B) the date on which the reserve component member elects to terminate the continued qualified health benefits plan coverage of the member's family members.

''(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

''(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for an eligible reserve component member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

''(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(h) NONDUPLICATION OF BENEFITS.—A member of the family of a reserve component member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of the reserve component member by the Secretary concerned under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

''(i) REVOCABILITY OF ELECTION.—A reserve component member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's family members shall become eligible for benefits under the TRICARE program as provided for under this chapter.

''(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

''1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty.''.

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, before we get started discussing the substance of the amendment, I think it is important that I make a comment about how the amendment came about, and that this is the Daschle-Graham amendment. Senator DASCHLE has been gracious enough to let me offer the amendment, but the truth is, without his support it would never have happened.

I have enjoyed tremendously working with him and others to try to find some common ground in terms of helping our Guard and Reserve communities facing unprecedented problems from the war on terrorism. They are doing a terrific job, just as are our active-duty troops. This has been a bipartisan effort. We worked on this last year. Senator DASCHLE offered the amendment last year. We made some progress. There was a compromise reached for the uninsured Guard and Reserve members to have $400 million to allow them to have full-time health care through the military health care system. That program was not implemented to my satisfaction. I doubt if Senator DASCHLE was pleased, but at least we did make some progress.

Chairman WARNER has been very gracious in allowing us to offer this amendment and has tried to work with us at every turn. Senator CLINTON was one of the original cosponsors, along with Senator DEWINE. I could make a fairly lengthy list of Republicans and Democrats who tried to find some common ground when it comes to the Guard and Reserve community and their participation in the war on terrorism. What we have before the Senate today is a result of that bipartisan effort.

I listened to Senator DASCHLE talk about his visit to South Dakota. I had a similar visit in South Carolina when people kind of urged us to get our act together and do more in common, find some common ground up here. I think we found that today.

Guard and Reserve members, most Americans would assume, are covered in terms of military health care, but they are not. I think most Americans find it surprising that if you join the Guard or Reserve you are not entitled to military health care unless you are activated. The truth is, if you are a Guard or Reserve member, you have to work at least one weekend a month and 2 weeks a year. But the big joke among the Guard and Reserve is, ''What a heck of a one weekend a month, 2 weeks a year job'' because so many of them have been called to active duty for extended periods.

By the end of this year, 40 percent of the people serving in Iraq and Afghanistan will be members of the Guard and Reserve, called to active duty for probably a year or more. The reason that is so is because the Guard and Reserve community possesses unique skills that are essential to winning the war on terror. Mr. President, 75 percent of the people flying the C–130 in Afghanistan and Iraq come from the Guard and Reserve community. These air crews come from Air Guard units and Air Reserve units.

The C–130 is an indispensable asset in the war on terrorism. It is a four-engine prop plane. It was not the leading edge weapons system in the cold war. But when it comes to the war on terrorism, it can land in short spaces and take off in short spaces and haul people and cargo under some pretty adverse conditions. When I toured Iraq last year with fellow Senators, we had nine C–130 flights going in and out of Iraq and Afghanistan. All nine flights were manned by Reserve crews.

Ninety percent of the people in the civil affairs component of the military are Reserve or Guard members. What do the civil affairs folks do? They are the ones who go around to Afghanistan and Iraq and teach democracy. They help local government organize at the equivalent of a city or a county level. They are helping judicial systems start. They are civilian lawyers and judges and administrators who leave small towns and big towns and they offer their service to the military. That service is being offered in Afghanistan and Iraq and is completely indispensable. We will never win the war on terror unless we get some democratic principles in the Mideast, and the civil affairs units are the leading edge folks providing that service.

Another group that is highly valuable that is heavily laden in terms of Guard and Reserve participation is military police. I know our Presiding Officer is a former member of the Reserve component, legal officer. He probably has a lot of MPs from Alabama who have been called from active duty to go to Afghanistan and Iraq and Bosnia and perform that function.

The military police force has a way to go. Major combat operations are over, but we know from our PC screens, what we read and hear from what is reported from our troops, Iraq and Afghanistan are very dangerous places. What we are trying to do is create order out of chaos. The military police are not only trained in combat skills but policing skills. High numbers of the military police units that are being activated to thwart the war on terrorism come from the Guard and Reserve communities. Most of them have civilian connection to law enforcement. They come from small towns all over America—from Alabama, South Dakota, and South Carolina. They are two of the five cops deployed because they are military police Reserve or Guard units.

The point of this discussion is to try to inform the body that the reason the Guard and Reserve community is so heavily utilized is because it has unique assets and skills which are essential to win the war on terror. The commitment from this group will continue to grow probably over time—not less.

It is now time for the Senate, the House, and the administration to work together to upgrade the benefits of the Guard and Reserve community.

One of the big problems we find from the war on terror is about 25 percent of the people called to active duty from

the Guard and Reserve community are unable to go on active duty because of health care problems. That percent of the people in the Guard and Reserve do not have health care insurance in the private sector.

In my State, our adjutant general, Stan Speers, who has done a wonderful job leading our National Guard, says about 50 percent of the people in the National Guard in South Carolina have no health care in the private sector. What happens when you are called up? You have rigorous military standards in terms of being activated and sent off to war. The leading disqualifier for going onto active duty after being called from the Guard and Reserve is dental problems.

When you think about it, a lot of private health care plans have very limited dental coverage.

What we have been working on for well over a year is to provide full-time access to Guard and Reserve members and their families to military health care called TRICARE. If you are called to active duty from the Guard or Reserve, or if you join the Active-Duty services, you will became a member of TRICARE. Our chairman, Senator WARNER, is the father of TRICARE. It was through his initiative that we created this large network of hospitals and doctors that go beyond the limits of the base. We signed up doctors and hospitals all over the country and the world to provide health care to our military members and their families. TRICARE is getting better every year. It is a free benefit.

But for those who serve in the military, you earn what you are getting because nothing is really free. You are risking your life for our freedom. But there is no contribution required of Active-Duty personnel.

What Senator DASCHLE, myself, and others have tried to do is cover this problem for the Guard and Reserve community in a creative fashion. Let us allow them to enroll in TRICARE. What would be the benefit of that for their country?

Number one, our Guard and Reserve would have continuity of health care. They would be in a health care system that is providing quality health care. It would be a great recruiting tool. If you join the Guard or Reserve, you and your family would be eligible for military health care. That would be a good attraction to get new people to come in. It would be a great retention incentive for people to stay in who have already signed up because they could get their health care through the military. It would be a great relief to employers.

The unsung hero of this whole operation in terms of the Reserve community is employers. If you go without your employer for a year or greater, many employers pay the difference between active and civilian pay.

More times than not, when a person is called to active duty, they get a cut in pay. Their military pay is less than their civilian pay. Their families suffer because the military members stand in harm's way. The support network for the Guard and Reserve is not nearly what it is for Active-Duty people. They get a cut in pay.

We are trying to lessen the effects on hardships on families. We are trying to make it an incentive for Guard and Reserve participation.

Here is how the program would work. If you join the Guard or Reserve, you and your family would be eligible to enroll in TRICARE, if you chose to. You would be asked to pay a premium. Unlike your Active-Duty counterparts who receive this without any cost sharing, you would be asked to pay a premium. I think that is fair. The premiums we set up, mirror what Federal employees have to pay in terms of their match for their health care. It is a good deal for the Guard and Reserve members and their families. It lessens the cost. It would be a shared responsibility, for the member would have to contribute and the Government would have to contribute.

I didn't know this until I got into this debate. If part-time Federal employees work 16 hours a week for the Federal Government, they are eligible for full-time participation in our health care plan. If you are a temporary employee, after a year you are eligible for full-time participation without a Government match. I think that is a good idea. I think this is fair and balanced for part-time Federal employees.

I think it would be a shame for a part-time citizen soldier not to at least have that benefit. We are not talking about a normal job. Everyone who serves this country by working for the Government is doing a good thing. People in the Guard and Reserve are not only serving their country in a positive way, but they are literally risking their lives. They take a cut in pay. They go from home into harm's way. Last month, the casualty rate among the Guard and Reserve community had a tremendous bite because there are more and more Guard and Reserve people in Iraq and Afghanistan. That is going to stay the same or get worse over time because we can't win the war without these people.

This amendment would allow, if the members chose, a chance to join TRICARE for themselves and their families. They would pay a premium, and the Government would pick up the match.

The committee markup allows the Guard member to join and pay a premium. It requires the employer to pay the remaining amount of the TRICARE premium.

I appreciate that effort, but the reason I think that misses the mark is because a lot of Guard and Reserve members don't have a private health care plan with which to cost share. You are going to have a very convoluted system. And at the end of the day, I feel very strongly we should not outsource the health care needs of the Guard and Reserve family—to be shared by the military member and the private sector alone.

I think it is very important for us in the Senate and in the House to say this is a government responsibility also, that it is fair to ask the Guard and Reserve family and member to contribute. But I think it is incumbent upon us to also have the Government contribute.

I have yet to find a taxpayer who is upset with the idea that we are going to pick up some of the health care costs for our Guard and Reserve members and their families for protecting our freedom.

The cost of the program: It depends on who you ask. But the latest CBO estimate is about $5.4 billion over a 5-year period. I think there are ways to lessen that cost, and I will be very openminded to that. But we are talking about a $2.2 trillion budget, and a defense budget approaching $400 billion.

My question to the body is, Is that $1 billion a year a wise expense of money? The question is, Can we afford not to? This is about two-tenths of 1 percent of the entire military budget; 300,000 families would be affected. These families are being called upon to do more as Guard and Reserve members than at any other time in the history of the Nation. They don't have health care provided to them by the Government, even though they are fighting to make sure we are all free. That is an inequity we need to fix. A cost-sharing arrangement between the Government and the military member is the way to go. It would help our employers greatly.

If you hire a Guard or Reserve member, and if they can sign up for military health care, it is less expensive for you to hire them and they became a more valuable employee. The employer community has suffered greatly in this war. They have gone without key employees for well over a year's time. They have been paying the bills as if the person were still there, and they need some relief.

I hope we can, in a bipartisan fashion, pass this amendment that Senator DASCHLE, myself, and others have worked on for well over a year. This amendment, simply stated, would allow Guard and Reserve members and their families access to full-time military health care, so when they are called they will be fit to fight, that they will have the security that continuous health care provides families, and they will not be bouncing around from one group to the next.

This is what often happens. If you are in a health care plan in civilian work, you are called to active duty, you leave that health care plan to go into TRICARE. On one of the C–130 crews I was flying with, there were two first-time dads on the crew. One of them had a private plan with Southwestern Bell that continued health care for the family voluntarily. They do not have to do that. The other was a realtor who had private health insurance. When he was

called to active duty, his wife had to change doctors and hospitals. That was very traumatic.

We can lessen that trauma. We can give an option to the military member and their family, the Guard and Reserve military member, to have the same set of doctors and hospitals year round. They do not have to bounce from one group to another. When they are called off active duty, they lose their TRICARE eligibility within less than 6 months and have to change doctors and hospitals twice. It creates a serious disruption. Twenty-five percent have no health care in the private sector. This would solve that problem.

In terms of the money, it is the best deal you will ever find to defend America. It will save money. If 25 percent of the people called to active duty cannot be utilized because of health care problems, a small investment in their health care makes good sense from a business equation.

If necessary, we will find offsets.

I hope the Senate today, in a bipartisan fashion, will extend TRICARE health care benefits to every Guard and Reserve member who chooses to sign up in a cost-sharing fashion to make sure those people are ready to go to war when called, that their families are better taken care of, and that the concerns of continuity of health care will finally be addressed forever.

This is affordable. It is the right thing to do. Our Guard and Reserve families and members have earned it. They have earned this benefit.

I yield for my colleague, Senator DASCHLE.

The PRESIDING OFFICER (Ms. MURKOWSKI). The minority leader is recognized.

Mr. WARNER. Will the Senator yield?

Mr. DASCHLE. I yield.

Mr. WARNER. To frame what this debate is about, if I might ask my distinguished leader to let me interject on my time period, there is no stronger proponent of Reserve benefits than this humble Senator from Virginia. I served in the Marine Corps Reserve for some 12 years. I have some basic understanding of the tremendous and vital importance of our Reserve Forces and the need to try to give them as much possible care. Our bill has gone a long way to do that.

I will go into the details of the $700 million—$300 million increased expenditure by the administration on behalf of the Reserve and $400 million by the Senate Armed Services Committee. However, my distinguished colleagues from South Carolina and South Dakota wish to add into this bill a $700 million cost. It is not offset in any way. Consequently, if this amendment is adopted and we go to conference, we have roughly $700 million already in the bill, which improves the life of the reservists, and on top of that, they are suggesting an additional $700 for this fiscal year, but the outyear bills are just enormous. It would be $700 million in the fiscal year 2005 and $5.7 billion over 5 years and $14.2 billion over 10 years. We are talking about a very significant, permanent entitlement for the reservists which is extremely costly. From where do those dollars come? Out of readiness, new equipment, and other needs of the Armed Forces.

Essentially, that would be my basis for the objection.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Madam President, I appreciate the comments of our distinguished Chair and compliment him on his leadership and the effort he has made to put this bill before the Senate. I will come to the reservations he has raised in a moment.

Let me begin by thanking my colleague from South Carolina, Senator GRAHAM, for his tremendous leadership on this issue. It has been a true pleasure for me to have had the opportunity to work with him these past 18 months on this legislation. We come from quite different backgrounds, different approaches and philosophies, but on this issue in particular, I have enjoyed immensely the opportunity to work with him. I compliment him on his statement just now and on the remarkable work he has done to date.

Let me also compliment and thank Senators LEAHY and CLINTON for their work and role on our side, and certainly Senator DEWINE and others on the Republican side for their involvement.

As Senator GRAHAM noted, this is a strong bipartisan effort involving many Senators on both sides of the aisle. The votes that have been taken already indicate the depth of support and enthusiasm for the amendment Senator GRAHAM and I are offering again this afternoon.

I am sure most of our colleagues had the same experience I did last Monday. We spoke at Memorial Day events. We recalled the sacrifices made by our men and women in uniform now for more than 220 years. I am sure many of our colleagues in particular focused on the commitment made by our men in uniform today. Now, more than 800 men and women have been killed in Iraq in recent years; 122 have lost their lives in Afghanistan; more than 5,000 have been injured.

I have been to Walter Reed Army Medical Center on numerous occasions to visit the injured who are from South Dakota. If my colleagues shared my same experience, they were moved by the patriotism, by the depth of feeling and support for our troops and our country as we gathered to commemorate Memorial Day again this year.

Over and over again, I saw cars with bumper stickers proclaiming ''support our troops.'' I propose that supporting our troops entails more than expressions of support from the heart, as important as they are. We need to support our troops emotionally and rhetorically with our bumper stickers, but if we mean what we say, supporting our troops also must go to supporting their needs.

That is what Senator GRAHAM and I are again proposing with this amendment: to support our troops in a realistic and meaningful way that matters to them. That really is what this amendment does. It recognizes a need.

It also recognizes today an inequity. As my colleague from South Carolina noted, 40 percent of those boots on the ground today in Iraq are reservists, members of the Guard and Reserves. Madam President, there are 160,000 Reserve troops—1,200 from South Dakota—now on active duty. That is a dramatic departure from past practice.

In the past, it was active duty personnel who performed these roles. In the past, it was active duty personnel, augmented at times through history by the draft, who gave us the manpower we needed to do the job wherever it may have been required. But in the post-Cold War period, our military practices have changed dramatically. Now we are turning to our Guard and Reserves. We are saying: You need to fill the gap. You need to defend your country.

Now it is more than just a weekend commitment each month. Now it is a year, and in some cases 2 years of your life, giving up your job, giving up your time with family, exposing yourself to life-threatening circumstances. Now you are doing it.

Madam President, 40 percent on the ground—that is vastly different than what it was just a few years ago. So this amendment attempts to deal with the inequity of troops on the ground fighting for their country in Iraq: one troop sitting right here with full health insurance for himself and his family; the other troop, right here, with absolutely no health insurance coverage at all. How in the world today could that be fair? And how in the world, in the name of supporting our troops, can we accept that?

I want to see those ''Support Our Troops'' bumper stickers, but I want it to mean something. I want it to mean what we say. We are supporting our troops and their needs. And this is their greatest need.

I acknowledge the work done by the chairman of the Armed Services Committee and the ranking member. They have addressed this issue. I acknowledge the support they have shown. We have come some way, some distance in the last 12 months, but there are five crucial differences. For the record and for the information of our colleagues, I want to walk through those differences, if I can, just briefly, because it is our argument for why we need the amendment offered by Senator GRAHAM and myself and others.

First is coverage. Under the committee bill, only those reservists who can gain the consent of their employer will be allowed to participate. We believe the fate of reservists in the private sector should not be determined by their employer's attitude.

Why should they have to get approval from their employer to get health insurance from their Government—fighting for their country, as they now do in Iraq, Afghanistan, and around the world? To me, that does not connect. Employer support is helpful, but employer approval to get Government benefits does not seem, to me, to be the approach we want to subscribe to, and I think it sets a very dangerous precedent.

The second is cost. The committee bill requires the reservist's private-sector employer to pick up 72 percent of the cost of the reservist's health care premium. So unless the reservist's employer is prepared to pay 72 percent of the premium for the reservist, that employer is not going to sign off on the health care coverage. The employer is going to say: I would love to do it, Joe, but I can't afford it. You are telling me to do something I would love to do.

My colleagues and I know how these things work. I have talked to a lot of awfully good employers, awfully good small employers, who virtually break down when they tell me how it hurts for them to make a decision between offering employment and offering benefits and recognizing they cannot do both. We have thousands of employers in South Dakota who would give anything if they could offer benefits to their employees. But to tell those employers they are going to have to pay 72 percent of the cost, I guarantee you, almost 100 percent of the employers will say they can't do it or they would have done it by now.

Now, as it relates to cost, yes, the chairman is correct. The cost of this program in the first year is $696 million. Madam President, $696 million sounds like a lot of money, and it is—$5.7 billion over 5 years. But, as the Senator from South Carolina said so well, do you know what that amounts to in terms of the percent of the defense budget? In percentage terms, for the defense budget, this represents two-tenths of 1 percent. That is what we are talking about, two-tenths of 1 percent, to follow through with the commitment that we, as a nation, must make when we say: ''Support Our Troops.''

I think we can afford two-tenths of 1 percent. And, as Senator GRAHAM said so well, we cannot afford not to. I will get to that in a moment.

The third difference is reimbursement. Under our amendment, if a reservist's family opts to retain their personal doctor rather than enroll in TRICARE when the reservist is activated, the family can do so. We want to give the family the option of choosing the best coverage for themselves, and the Defense Department would simply pick up a portion of the family's private health care premium. That is all we do. You choose. You are not going to be penalized for whatever choice you make.

The fourth difference is the amount of the annual premium. Under our amendment, an individual reservist can obtain health coverage for about $1.37 a day. The reservist with a family could obtain coverage for about $4.90 a day. The committee bill does not specify how much a reservist would have to pay, and they leave it to DOD.

I think reservists will tell you: We like the certainty of knowing, as we make our choice, what it is going to cost. And $1.37 a day is $1.37 more a day than Active-Duty personnel pay. And $4.90 a day is $4.90 a day more than Active-Duty personnel pay for family coverage. So the reservists are already paying more than what their counterparts right next to them in the line of battle are required to pay today, even though they are both defending this country.

Finally, the last difference has to do with deductibles and copayments for doctor visits. Unlike the committee bill, we ensure that the reservist would not face an annual deductible or copayment for doctor visits. The committee bill does.

So those five specific differences are why we have come to the floor. We acknowledge the commitment and the effort made by our chairman and ranking member and others on the committee to address this issue. But I have to say, for two-tenths of 1 percent of the entire defense budget, we will be able to say to our reservists: We are not only going to support you rhetorically, we are going to support you with what you have told us is your single greatest need and concern today.

There are three reasons I think we need to adopt this legislation: First, because it is the right thing to do. I don't know how you explain, today, to a member of the Guard or the Reserves, who soon could be stationed in Iraq for perhaps 2 years that even though he is required to pay for his health insurance and his Active-Duty counterpart is not, that we are not even going to give him even that chance at coverage, but we want him to defend his country. I do not think that is right. That is inequitable, that is unfair, and this amendment addresses it.

The second is retention. Senator GRAHAM mentioned this so well. We have some very serious concerns about retention in our Guard and Reserves, for good reason. For a lot of them, this is not what they bargained for; this is not what they were told. We have the best Guard and Reserves we have ever had, the best we have ever had in history. If we do not want to go back to those bad old days, in my view, of the draft—and we have a bill pending, S. 89. I get asked all the time: Will there be a draft?

I tell them: No, I don't think you have to worry about a draft. Why? Because the volunteer Army has worked. Why? Because the Guard and Reserves are filling that void, that gap that we used to call upon the draft to do. But if we see the attrition and the erosion in support and the reduction in the enrollment and re-enlistment, we are going to pay a very heavy price. I cannot think of a better inducement for re-enlistment than this.

Finally, the third reason is simply the need. You can check the category, but across the board, one out of every five of our members of the Guard and Reserves has absolutely no health insurance today. In the age groups below 30, it is even higher, almost 40 percent. So there is a need that we need to address.

So I enthusiastically join my colleague, the distinguished Senator from South Carolina, Mr. GRAHAM, in asking our colleagues, once again, to do what they have done in the past: Support the effort to provide this needed benefit. It is needed, not only for purposes of addressing an inequity that I think has been long overdue, but also real concerns about retention and parity. If we are all going to do what we said we were going to do last Monday, during our Memorial Day speeches—''support our troops''—let's do it more than with bumper stickers and rhetoric.

Let's do it immediately. Let's help them. Let's provide them the assistance they tell us would mean more than anything else we could do for them right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I ask my colleagues for no more than 2 minutes.

I listened intently to our distinguished Democratic leader as he outlined his proposal. Correct me if I am wrong, but I understood him to say that when a reservist goes on active duty, he has to worry about his costs.

Could I direct the Senator to title 107(4)(a) entitled ''Medical and Dental Care'' which explicitly says for anyone, reservist or guardsman, on active duty for 30 days or less, they are entitled to it. There is no problem. They are treated exactly as the Active-Duty individual. So may I ask the Senator to refer to that statute and review the remarks that he made to the Senate.

Mr. DASCHLE. Madam President, if I may respond to the distinguished Senator from Virginia, I would simply say that he reads and interprets the law correctly. He said it just as the law reads. While on active duty for that 30-day period, there is no difference. But what about before and after? What about the families and what about the opportunities accorded those families when the need arises? There isn't any accommodation. I think we have to take into account the universe of support we provide through health benefits for Active-Duty personnel.

I stand by my statement concerning the disparity that exists today. I don't want to take anything away from Active-Duty personnel. They deserve every dollar of support we provide them through good health insurance. All I am saying is that today, given the dramatic change we have seen in the makeup of our military and the role

now that the Guard and Reserves play, the Guard and Reserves, for a personal commitment that I outlined in my remarks a moment ago—$1.37 a day for individuals, $4.90 a day for families—ought to be entitled to that same level of confidence. Today the law denies that.

I thank the Senator for asking the question.

Mr. WARNER. Madam President, I appreciate that the Senator at least clarified that point. I would like to point out also that in the existing bill, we have added 6 months after demobilization in a transition to civilian life. They are entitled to these same benefits. It isn't as if we drop them the day they walk out of the gate, having served with distinction in his or her service on active duty.

I think we are framing this debate correctly. We have to look at the associated costs with this permanent entitlement program which is being proposed. Bear in mind, particularly to my colleagues who have had experience in the military themselves, we are narrowing the gap between the benefits for reservists and guardsmen and those who commit to enlistment for 5 years or those who aspire to be careerists for 20-plus years. Pretty soon people are going to say, why should I become a regular member of the U.S. Army and sign up for commitments of many years when I can stay in the Reserve and just about get all the same benefits that a regular gets? Once we start that breakdown, I dare say, my dear friends, we will have a lot of difficulty recruiting for the Active Forces and much less difficulty recruiting for the Reserve and the Guard.

I believe the Senate is under an order.

RECESS

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

Thereupon, at 12:34 p.m., the Senate recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

The PRESIDING OFFICER. In my capacity as a Senator from New Hampshire, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

AMENDMENT NO. 3258

Mr. WARNER. Mr. President, as to the points of the pending amendment that the Senator from South Carolina and the Senator from South Dakota have spoken very eloquently about with regard to their amendment, I will interject briefly my own observations and strong opposition because I believe that the Armed Services Committee structured a very adequate program for the Reserves.

I direct the attention of Members to page 135 and thereafter in the bill on each desk, which outlines what the committee did. Roughly, the President's bill had $300 million in allocations toward additional benefits for the Reserve and Guard. The committee went beyond that and added another $400 million, and now along comes this proposal which would add on top of that another $700 million.

We are really beginning to face quite a severe dollar problem because unless this amendment is defeated, it would require the conference to seek out cuts in other military programs, all of those programs having been carefully evaluated by the two committees, the House and the Senate, and reduce them by some $700 million. That is the bottom line.

The other reason I feel very strongly about that this proposed legislation is not in the best interest of the services, it really begins to provide for the Reserve and Guard Forces in a manner that is commensurate with the Active-Duty military personnel.

Stop and think. When a young person—and oftentimes that person now has a family with a wife and vice versa as the case may be—sits down and evaluates their life and how they would like to make a commitment to service in uniform to this country, suddenly they look at the alternatives. Well, there is the Active and we get a certain degree of benefits under the Active; then there is the Reserve or the Guard, and they compare the benefits that they would get under that program. If this legislation is passed, it is beginning to close the last gap between the benefits on the Active side and the benefits on the Reserve and Guard side.

Now, one might say, well, Senator, when the Reserves are called to active duty, they perform just as the Active member, and that is correct; they take the same risk as the Active member, and that is correct; the family assumes much the same hardships as the Active member, and that is correct. But when the Reserve completes his or her obligation of a callup, they return to the Reserve status, they return to their homes, they return to their civilian jobs and their life in the civilian community with such obligations as their Reserve or Guard requirements require.

The Active person perhaps finishes their overseas commitment, they go back to the training base, they are fully in the military, fully subjected to the regimen of the military, fully subjected to going right back overseas on a very short turnaround basis. We have witnessed that during this conflict period covering the AORs of Afghanistan and Iraq. But the regular soldier, sailor, airman, and marine, when they commit to a tour of duty of 3 or 4 years' obligated service, or the officers accept their commissions and obligate themselves for 4 or 5 years, whatever the case may be, they understand that, but it makes for equity and fairness that the Active rolls have some benefits that compensate for the rigors, the constant risk, the constant disruption, the constant moving of the Active-Duty Force, unlike the reservist who is called back for a period of time, then released to go back to their civilian jobs and their homes. They could own that one home, whereas the military soldier, the careerist on active duty, often has to get a home, sell it, go get another one, sell it, move, move, sell, rent. Those are hardships for which I think through the years the Congress has carefully balanced out an equitable formulation of the benefits for the Active Force and the Guard and Reserve.

This amendment makes a very substantial closing of that gap, and I think it will be an inducement for young people now to go into the Reserve and Guard because they are going to have just about the same benefits as the individual on active duty, but they can stay in their homes, stay in their jobs, perform their weekends and 2 weeks in the summer active field training. They can match both their civilian life and their Guard and Reserve life and balance it in such a way as to basically stay home. That is not so with the regular force.

So when we reported out the bill S. 2400, we went further than the Senate has ever gone before to improve health care benefits for Reserve members, and it reflects our Nation's growing reliance on their service. When a Reserve or Guard is called up, within 30 days—and I think in a respectful way I brought this to the attention of the distinguished Democratic leader—they are treated just as an active Regular once they go on that active duty. We have added permanent TRICARE coverage before and after mobilization and created a new option for the Reserves and their families to participate in TRICARE while they are enjoying the benefits of civilian life. They have an option but they have to pay something for it.

The bottom line is we are dealing with the taxpayers' money. That is what we are dealing with, the taxpayers' money, and it is quite a considerable commitment under this amendment.

Our fundamental disagreement is how we achieve these goals. The difference, again, is cost. The amendment would be $700 million for this 1 fiscal year, $5.7 billion over the ensuing 5 years, and $14.2 billion over a 10-year period from adoption. We are under stringent budgets these days, and our military is very much in need of modernization, new equipment, additional training, reconfiguration, particularly the U.S. Army, and all those are costly

items. If this amendment were adopted, it would draw down on that ability of modernization.

Our statistics show the vast majority of reservists and their families, at least 85 percent according to the Comptroller General, have health coverage from their employers. Recruitment and retention among Reserves at the present time is not a crisis. So this is not a recruiting tool.

So I ask my colleagues, why, then, should we respond to increasing calls to the Reserve providing health care compensation in a civilian capacity that is so costly as to guarantee erosion of funding needed for readiness requirements of the other military branches? Under S. 2400, all become eligible for TRICARE when they are mobilized in support of a contingency. All are eligible for 6 months additional coverage after they are demobilized. Mr. President, $200 million is set aside for a demonstration project to provide coverage for the unemployed and the uninsured.

In addition to these new benefits, let us not forget that all reservists and their families are eligible to enroll in the Reserve dental insurance program, in which the government pays 60 percent of premiums for reserve families whose sponsors are mobilized for more than 30 days; and all reservists who retire with 20 years of creditable service are eligible for TRICARE for life when they reach age 60.

Colleagues, the amendment will duplicate private insurance, handing a windfall to the insurance companies who are now paying full premiums for coverage of civilian-employed reservists. The amendment asks the taxpayers to take the place of employers in providing health care coverage for reserve members while they enjoy the benefits of civilian employment and civilian life.

The underlying bill also includes authority for appointment of an independent commission on the future roles and mission of the reserves. This commission would examine all the proposals for enhancements to compensation and benefits of Reserve members that have been proposed in light of changes in current and future roles.

We should not more blindly into a permanent and costly government entitlement for reservists while, unlike their active duty counterparts, they are enjoying the benefits of civilian life, and earning benefits in their civilian roles.

This is the fundamental basis for the reserve: an option, desirable to many, to maintain civilian employment and benefit status and civilian lifestyles for the majority of their careers, while serving in reserve for the nation's active military components.

Let us not ignore the significant investment and improvements in the underyling bill for reserve members and their families, which are affordable for this country, today and in the future.

So I think we have hit a very balanced program in the committee bill acted upon by all members of the committee. To the best of my knowledge it was voted out unanimously by committee. I hate to see this treatment of the hard work of the committee. They are entrusted, by virtue of their assignments on this committee, with making the tough decisions as to how best to balance the benefits given to the Guard and Reserve and those in the Active Force. And I come back to the American taxpayer who has to foot a very considerable permanent guarantee, the entitlement under this program for many years.

At this time I yield the floor.

Would the Chair advise the Chamber with regard to the time remaining under the control of the Senator from Virginia and the control of the two proponents of the measure?

The PRESIDING OFFICER. At this time there is no pending time agreement.

Mr. WARNER. I see. I thank the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. REID. Will the Senator from South Carolina yield?

Mr. GRAHAM of South Carolina. Yes.

Mr. REID. I have spoken to the two managers of the bill and the proponent of the underlying amendment, together with Senator DASCHLE. They would be willing to start a vote at 3:30. However, I don't think there is that much more talk on this amendment. We will have a vote at 3:30 for the convenience of some Senators. We could complete the debate fairly soon, within the next 10 or 15 minutes, and then if the Senator from Virginia wanted to lay down the $25 billion amendment, we could do that and get started on that, and then we would stop at 3:30 and have our vote?

Mr. WARNER. Mr. President, I think that is a very good suggestion. We then seek unanimous consent to vote, now, at 3:30, with the understanding that in the interim period we could set the amendment aside, bring up another amendment, and then terminate debate on that amendment at the established 3:30?

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I understand we will soon be carefully scripted by our very able staff.

Mr. REID. We can be carefully scripted, but the point is, what the intent of the manager of the bill is that we will vote at 3:30 on the Daschle-Graham amendment. Then prior to that time we would have a few minutes remaining on this amendment. Then we would go off this, go to, I believe it will be a bipartisan amendment of Senator WARNER and Senator LEVIN about $25 billion, debate that for a while, vote, and then go to the recognition time for the World War II veterans. Then, if the leader decides to come back after all that is done, tonight we would be on the $25 billion amendment and either vote on that tonight or some other time because under the order, as I understand it, that is now entered, tomorrow morning we go to the Cantwell-Graham problem we have.

Mr. WARNER. Mr. President, as usual our distinguished colleague has stated the facts with accuracy.

The PRESIDING OFFICER. Without objection, the pending request is withdrawn. Who seeks time? The Senator from South Carolina.

Mr. WARNER. Not on time yielding, as I understand it; whoever seeks recognition. I have had a time to speak. As I understand it, my colleague from Michigan——

Mr. LEVIN. I just have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, as I understand it, this is going to be a unanimous consent that is going to be entered formally, but it has not yet been entered; is that correct?

The PRESIDING OFFICER. The Senator is correct. The suggestion has been made.

The Senator from South Carolina.

Mr. GRAHAM of South Carolina. I just need 10 minutes to speak on the amendment.

Just to conclude this debate, this debate has been going on for a very long time, more than a year, on how to best take care of the Guard and Reserve Forces in terms of their health care needs. It is an honest debate, sincere debate. Mr. President, 85 Members of the Senate voted last year on this very amendment. I think I understand why they voted to extend health care benefits to the Guard and Reserve, full time, and with the premium to be paid for them. It makes sense for our military needs. Forty percent of our people in Iraq and Afghanistan are going to be Guard and Reserve members.

Let me explain as best as I can how this works. If you are a member of the Guard and Reserve today, while you are serving in that capacity you have absolutely zero health care benefits offered to you from the military. A part-time Federal Government employee, a temporary Federal Government employee receives health care benefits. So go home and explain that one. You can be a part-time Federal employee, work in the Senate or the House, and you get health care. You can be a part-time citizen soldier, training to defend America, and you get zip.

Now, it is true when you are called to active duty you get everything an Active-Duty person gets. The reason is because you are on active duty. That is not that great of a benefit, to pay you like somebody right next to you and to give you the same benefits because you are doing the same job. The point we are trying to make is, there is a problem in the Guard and Reserve community when it comes to health care. Mr. President, 25 percent of the people called to active duty, as I stated before, from the Guard and Reserve community are unable to go on active duty

because of health care problems. I would argue that we need a better health care network covering our Guard and Reserve members and their families, from a readiness point of view.

Let's talk a little bit about retention. The head of the Army Reserve said yesterday—and this is back in January—that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems were being masked temporarily because reservists are barred from leaving the military while the units are mobilized in Iraq.

In this prison abuse scandal what we found was that the MPs in that jail, and some of their associates, were due to go home, but they couldn't go back home because they were needed in Iraq, and they had the rug pulled out from under them, causing tremendous morale problems.

''This is the first extended duration war our Nation has fought with an all-volunteer force,'' said LTG James R. Henley, the head of the Reserves. ''We must be sensitive to that and we must provide proactive, preventive measures to prevent a recruiting retention crisis.'' 1–21–04.

''We got a real retention issue,'' said Republican Governor of South Carolina, Mark Sanford, our Governor and a member of the Air Force Reserve. ''We are going to see it emptying when people's tickets are up and when Guardsmen are not stepping up to the plate.''

You know, I am not sure that is true. Patriotism is high. To prevent them from getting out, we need to be thinking of what we can do to make it a more attractive job. But let's say you stay in. What can you do to honor your service to our country? This Congress has spent $400 billion on Medicare improvements. Let's talk about money for a minute. We are trying to get every senior in the country to sign up for a discount card because we want to help seniors. Great, good idea.

We are trying to spend $1 billion a year for 5 years to give Guard and Reserve members continuity of health care coverage, and we are arguing about the money? We spent $20 billion of hard-earned taxpayer money in Iraq. We gave it to the Iraqi people, to build their hospitals, to build their schools, to build their roads, to build their fire departments, and their police stations, to train their army. Do you know what. The money is needed.

I wanted to loan some of it because they are sitting on $1 trillion worth of oil. I like helping people but I want people to help themselves. So when it came time to write this amendment we did strike a balance. Here is the balance.

Right now, as a Guard and Reserve member, you are a part-time Federal employee. Unlike every other part-time Federal employee, you get nothing. So here is what we are suggesting. If you want to, you can sign up for military health care year round. It will be eligible for you and your family—you will be eligible for that program. But while you are a Guard or Reserve member you are going to have to pay a premium like a Federal employee. I wish we could get the Iraqi people to help pay some of the money back, but we are not. So they are going to make a contribution. This is not a free deal. They have to pay like every other part-time Federal employee. Put them in that same category. They deserve to be in that category.

Here is the difference between an Active-Duty troop and a Guard and Reserve member. No. 1, an Active-Duty troop is doing a great job, and we should pay them more. Senator WARNER has done a great job improving benefits for Active-Duty people. Our Armed Services Committee in the Senate has been second to no one in trying to make a better life for those who serve our country. My hat is off to them. We just have a disagreement over this particular amendment. But we are daily improving the benefit package of Active-Duty people. By God, they deserve it.

But here is why it will not affect recruiting. The Pentagon has started this argument. It is the most bogus argument I have ever heard. It is that if you offer TRICARE eligibility for the military members who would have to pay $1,800 a year for the benefit, as a premium for a family, that somehow that will hurt recruiting for active duty.

Here is your choice if you are going to pick between the two programs. You have a Reserve job or a Guard job that allows you to work one weekend a month, 2 weeks a year, and you get to retire when you are 60. The Active-Duty person gets a full paycheck, gets full health care benefits, gets a retirement after 20 years. There is no way that is going to compete and take people away from Active-Duty Forces. How are you going to raise a family working 2 days a month? They are part-time employees in a vital job, to defend America. Unlike every other part-time Federal employee, they are not eligible for Federal Government health care, and they should be. We are asking them to pay a premium unless they are called to active duty.

That is a fiscally responsible balance. We spent $20 billion of the taxpayers' money to make Iraq a better place. We spent $400 billion and counting on a prescription drug program for our seniors. Here we are, trying to get $5.4 billion over a 5-year period to cover 300,000 families who have suffered beyond description, in terms of leaving their homes and their jobs for pay cuts. Most Guard and Reserve members, when called to active duty, leave obligations behind, greater than the military paycheck. They make more money in the civilian world and when they are called to active duty they take a pay cut and we don't make up the difference. But they know that going in.

There are small things that mean a lot to these people, and this is truly small, in terms of money. It is two-tenths of 1 percent of the budget. Mr. President, 25 percent of the people are unable to go on active duty when called to the Guard and Reserve community because of health care problems. This amendment more than pays for itself. The money is well spent. It is affordable, and there are many programs in this budget that cost more than $700 million that, if you ask the taxpayer to choose, I think the Guard and Reserve community would win every time.

How many bills do we pass every year that spend billions of dollars on questionable programs? This is the one area upon which we can all agree. The Guard and Reserve community needs a better benefit package because they are being asked to do more than ever. They are dying at a greater rate this year than last year. What has happened in the year when we first debated this? There are more of them and they are dying at a faster rate.

The father of TRICARE is Senator WARNER.

This is why I object to committee markups. No. 1, the entire cost of TRICARE under the committee markup is borne by the employer community and the reservists. The Government doesn't contribute one penny to the health care needs of our Guard and Reserve members. That is wrong.

The unsung hero of this whole war effort, when it comes to the Guard and Reserve community, is the employer. Wouldn't it be nice if we could take a load off of small businesses and large businesses which have guardsmen and reservists and share in the cost of health care along with the Guard members themselves and take them off the payroll? It is a small thing. It would mean a lot to employers.

Employers have paid the difference between active pay and civilian pay voluntarily, and in huge numbers. We have done nothing to thank them. Taking care of the health care needs of our Guard and Reserve Forces is one less problem an employer has to worry about.

I ask the 85 Members of the Senate who voted last year for this very same measure, which is now $300 million cheaper and going down every minute because we are trying to make it cheaper, to step to the plate and say to the Guard and Reserve community: We got it. We understand your sacrifice. We understand your stress. We understand your family is having health care coverage problems. Twenty percent of them have no health care. They are bouncing from one group to the next, and we are going to fix that. We are going to give you an option. We are going to ask you to pay some, but we are going to make your health care life better.

I ask unanimous consent to have printed in the RECORD letters of support for this amendment from the National Guard Association of the United

States, the Reserve Officers Association of the United States, the Reserve Enlisted Association, the Air Force Sergeants Association, along with the National Guard Association of the United States.

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

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, May 19, 2004.

Hon. LINDSEY GRAHAM,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the 50,000 members of the National Guard Association of the United States (NGAUS), I want to thank you for doing so much for our membership in the National Defense Authorization Act for Fiscal Year 2005 (NDAA FY05). Your leadership, along with your colleagues, has given our soldiers and airmen the much-needed opportunity to participate in the TRICARE health program when not in a mobilized status.

This health coverage will not only provide Guard members and their families with continuity of care, but also with a chance to positively contribute to the betterment of the TRICARE program. As we all know, the system of care will respond in a positive way to these additional beneficiaries, especially in remote areas. The three new provider networks—TriWest, Health Net, Humana—have made a commitment to ensure TRICARE beneficiaries are satisfied with their health care. Along with Congress, we will also be keeping an eye on the path of transition from 11 TRICARE regions to three.

We recognize section 706 in the NDAA FY05 is an excellent starting point to providing a health care program to our Guardsmen as a measurement of the country's appreciation for all they have done. We support the initial intent of S. 2035, as sponsored by you and Senator Daschle, which was to have the Department of Defense pay 72 percent of the premium cost, thereby taking the burden off private and public employees completely. The NGAUS fully understands the pressure of budget constraints in the FY05 budget, but we are hopeful that soon the burden will be taken off the employers and rest fully in its intended, and rightful place, in the Department of Defense.

The fashion in which the National Guard is being utilized has forced America to take notice and recognize the full worth of these exceptional men and women serving in harm's way. Guardsmen are our neighbors, teachers, co-workers and students. Once again, thank you for all you have done for the soldiers and airmen in the National Guard.

Sincerely,

RICHARD C. ALEXANDER,
Major General (Ret.), AUS,
President.

RESERVE ENLISTED ASSOCIATION,
May 21, 2004.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. LINDSEY O. GRAHAM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE AND SENATOR GRAHAM: The mobilizations over the past three years since September 11th have once again shown that the readiness of our reserve components has been affected by medical issues. When called upon our nation's citizen-soldiers need to be prepared to answer that call, but without proper healthcare we cannot maintain a well trained and ready reserve force.

The Reserve Enlisted Association supports Daschle-Graham amendment to the Senate Armed Service Committee, FY2005, National Defense Authorization Act, S.2400, requiring the Department of Defense to assume responsibility for the employer cost of a Reservist's healthcare under TRICARE.

REA is dedicated to making our nation stronger and our military more prepared and look forward to working together towards these goals. Please feel free to call me at 202–646–7758 or via email at lburnett@reaus.org or our Legislative Director, Seth Benge.

Sincerely,

LANI BURNETT,
CMSgt, USAFR (Retired),
Executive Director.

AIR FORCE SERGEANTS ASSOCIATION,
Temple Hills, MD, May 15, 2003.

Hon. LINDSEY GRAHAM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the 136,000 members of AFSA, I would like to offer our support of S. 1000. This association has been on the leading edge of the effort to lower the earliest Guard and Reserve retirement age. We feel very strongly that the retirement age should be lowered at a minimum to age 55, consistent with the retirement age of all other federal retirees. Although the provisions contained within S. 1000 addressing this issue fall short of what we believe is fair, it is a step in the right direction.

Without question, reservists and their families will benefit from the opportunity to receive health coverage through TRICARE. So will DoD. Beyond recruitment and retention, this program will improve readiness since nearly 20 percent of reserve component members do not currently have health insurance. Maintaining a healthy force is absolutely essential to maintaining a prepared force.

The success of our national defense is dependent on a ''Total Force'' effort, and the availability of Guard and Reserve members is critical. The various tax credits contained in S. 1000 will encourage employee and citizen participation in Guard and Reserve programs, thereby facilitating the availability of these important servicemembers when they are needed.

I thank you for taking the initiative to introduce such an important piece of legislation. As always, I offer you this association's support on this and other matters of mutual concern.

Sincerely,

JAMES D. STATON,
Executive Director.

RESERVE OFFICERS ASSOCIATION
OF THE UNITED STATES,
Washington, DC, May 18, 2004.

Senator THOMAS A. DASCHLE,
U.S. Senate, Senate Hart, Washington, DC.

Senator LINDSEY O. GRAHAM,
U.S. Senate, Senate Russell, Washington, DC.

DEAR SENATOR DASCHLE AND SENATOR GRAHAM: It has been over a decade since Desert Shield and Desert Storm occurred and medical readiness problems were identified; yet the Reserve Components face the same problems with medical and dental fitness when mobilized for Iraq and Afghanistan. We cannot continue losing the service and experience of Reserve Component members who cannot mobilize due to medical readiness.

The Reserve Officers Association supports the Daschle-Graham amendment to the Senate Armed Services Committee, FY2005, National Defense Authorization Act, S. 2400, requiring the Department of Defense to assume responsibility for the employer cost of a Reservist's healthcare under TRICARE.

Sincerely,

ROBERT A. MCINTOSH,
Major General (Ret.), USAFR,
Executive Director.

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, May 21, 2003.

Hon. LINDSEY GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the men and women of the National Guard Association of the United States (NGAUS), I would like to personally thank you for your leadership in helping ensure passage your amendment to the National Defense Authorizations Act for fiscal year 2004 based off S. 1000 and S. 852. This important amendment provides the opportunity for Guardsmen to participate in the Tricare program on a cost-share basis. As you know, this initiative to improve healthcare readiness for members of the National Guard and Reserve components and their families is at the forefront of our priorities.

Your staff, especially Steve Flippin and Aleix Jarvis, has put forth a tremendous effort toward this initiative. You should be proud to have such an outstanding team.

Again, thank you for your continued support of a strong and viable National Guard.

Sincerely,

RICHARD C. ALEXANDER,
Major General (Ret.), AUS,
President.

Mr. GRAHAM of South Carolina. Mr. President, these letters are not just words on paper. I challenge every member of the public and every Senator to go back home and spend a few minutes in a Guard and Reserve unit and ask about TRICARE for those who have been on active duty.

Does it work? Senator WARNER deserves great praise because it is working. Ask the question: If you could sign up for TRICARE year round and pay a premium, how many of you would do it? Hands would be raised. It would be a great benefit to the 300,000 forces. It would be good for their families. It would be good for retention. It is affordable, and it is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, my colleagues have just heard an eloquent and extraordinarily persuasive case for the amendment offered by our colleague from South Carolina. It illustrates yet again why it has been such a pleasure for me to work with him on this amendment. He has made the case.

But for emphasis let me reiterate a couple of points which he made better than I could. First, with regard to cost, our distinguished Chair this morning—and I think on other occasions—has raised an understandable concern. He correctly noted that the cost of this amendment this year is about $696 million. The cost over 5 years is $5.7 billion. He correctly noted that there isn't any particular offset listed for this benefit. Of course, what we haven't said is that is exactly the situation we will face with the amendment he is about to offer. The only difference is

his is $25 million and ours is $696 million.

I said the only difference but there is another difference. The amendment requested by the administration for our efforts in Iraq indirectly benefits the United States but directly benefits the people of Iraq. This amendment benefits directly 300,000 people—men and women who are putting their lives on the line in support of their country's efforts in Iraq. It is two-tenths of 1 percent of the entire budget.

That is all we are asking—to say with an exclamation point that we support our troops. We support the efforts made by our members of the Reserve, the Guard, and the extraordinary heroism, patriotism, and dedication they demonstrate each and every day on the job.

We give our colleagues on the Armed Services Committee credit and our thanks for making an effort to address this problem in the bill, but with great respect and tremendous admiration for them. In particular, we have indicated in the past our concern and, frankly, our opposition to the language—as well intended as it is—to require that employers and the guardsmen themselves shoulder 100 percent of the responsibility, in light of the fact the colleagues they work next to every single day on the job get that critical benefit; it is part of their package for serving in the military. That is wrong.

To give an employer veto power over whether this guardsman can access the benefit is wrong. To say we are going to benefit our active-duty personnel and not provide any help or appreciation for the extraordinary difficulties in accessing health care for guardsmen is wrong.

The 85 Senators who supported this legislation in the past need to demonstrate once again that our commitment has not eroded and we will continue to press for parity, for fairness, for a recognition of the commitment made by our members of the Guard and Reserves every single month, week, and year until this action becomes law.

My colleague from South Carolina has done it so well, laying out our arguments and the persuasive case to be made. All that remains is, on a bipartisan basis, to again reiterate our strong support for the fairness represented in the Graham-Daschle amendment.

I thank him for his leadership. I thank our colleagues for their support. I hope we can send a clear message today, as we have said on so many occasions, that when we say we support our troops, we mean it with more than our words. We intend to step up to the plate and show it with our deeds. That is what this amendment does.

I yield the floor.

Mr. DEWINE. Mr. President, I thank the committee for their hard work on this bill. I am always impressed by how Senator WARNER and Senator LEVIN manage this bill and for the excellent work of their staff. Their continued commitment to our troops, and to our Nation is evident in this bill. It is especially important right now.

I also thank the committee for their very important inclusion of expanded TRICARE coverage to several members of the Guard and Reserve. While limited, the Committee's inclusion of any extended health care benefits to the reserve component is unprecedented. The committee's mark is an important step in the right direction, but the benefits included in the committee's mark simply aren't enough. They don't go far enough to reach the folks we need to; the current provisions don't provide the kind of coverage that we owe these individuals and their families. They also don't recognize the continued sacrifice of the employers of our Reservists and Guardsmen.

That is why I join my colleagues—Senator LINDSAY GRAHAM, Senator DASCHLE, and Senator LEAHY—in support of this important amendment. Unfortunately, benefits for our Guard and Reserve simply have not kept pace with the increasing role these folks are expected to play. With the increasing demands we are placing on these individuals, it is the right thing to do. I look forward to working with my colleagues throughout the coming months to make these important initiatives a permanent reality.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, at this time I would like to lay this amendment aside and proceed with another matter, with the understanding that prior to the vote, assuming we do establish the vote to be at 3:30, there may be some desire by the proponents as well as the opponents to speak for a few minutes.

We will proceed at this time.

Mr. REID. If the Senator will yield, is there any reason we cannot lock in a vote at 3:30 today?

Mr. WARNER. I now ask unanimous consent that following the granting of this consent, the pending amendment be temporarily set aside in order for the chairman to offer an amendment regarding a $25 billion contingent fund. I further ask consent the vote in relation to the pending TRICARE amendment occur at 3:45 today, with the 15 minutes prior to that vote equally divided in the usual form, with no second-degree amendment in order prior to the vote. I further ask consent following the vote, the Senate begin the 60-minute period during morning business and provided for earlier. That will address the recognition of the World War II veterans who are currently Members of the Senate.

I amend one thing, if I may, from my reading, and that is at 20 minutes prior to the vote, I understand there is another speaker on my side who may wish to speak.

Mr. REID. That would interrupt the amendment you are going to lay down.

Mr. WARNER. That is correct.

Mr. REID. And go back to TRICARE, 20 minutes before the vote on TRICARE?

Mr. WARNER. Correct.

Mr. REID. Rather than 15 minutes, we have 20 minutes equally controlled between the 2 managers.

Mr. WARNER. Correct.

Mr. LEVIN. Reserving the right to object, to clarify, is it 20 minutes on top of the 15 minutes?

Mr. WARNER. No, extending 5 minutes.

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

Mr. WARNER. I thank the Presiding Officer.

I ask unanimous consent the pending amendment be set aside.

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

AMENDMENT NO. 3260

Mr. WARNER. I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. STEVENS, proposes an amendment numbered 3260.

Mr. WARNER. I think that should say Senator WARNER, for himself, Mr. LEVIN, and Mr. STEVENS.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WARNER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To authorize appropriations for a contingent emergency reserve fund for operations in Iraq and Afghanistan)

On page 239, between lines 2 and 3, insert the following:

SEC. 1006. AUTHORIZATION OF APPROPRIATIONS FOR A CONTINGENT EMERGENCY RESERVE FUND FOR OPERATIONS IN IRAQ AND AFGHANISTAN.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2005, subject to subsections (b) and (c), $25,000,000,000, to be available only for activities in support of operations in Iraq and Afghanistan.

(b) SPECIFIC AMOUNTS.—Of the amount authorized to be appropriated under subsection (a), funds are authorized to be appropriated in amounts for purposes as follows:

(1) For the Army for operation and maintenance, $14,000,000,000.

(2) For the Navy for operation and maintenance, $1,000,000,000.

(3) For the Marine Corps for operation and maintenance, $2,000,000,000.

(4) For the Air Force for operation and maintenance, $1,000,000,000.

(5) For operation and maintenance, Defense-wide activities, $2,000,000,000.

(6) For military personnel, $2,000,000,000.

(7) An additional amount of $3,000,000,000 to be available for transfer to—

(A) operation and maintenance accounts;

(B) military personnel accounts;

(C) research, development, test, and evaluation accounts;

(D) procurement accounts;

(E) classified programs, and

(F) Coast Guard operating expenses.

(c) AUTHORIZATION CONTINGENT ON BUDGET REQUEST.—The authorization of appropriations in subsection (a) shall be effective only to the extent that a budget request for all or part of the amount authorized to be appropriated under such subsection for the purposes set forth in such subsection is transmitted by the President to Congress after the date of the enactment of this Act and includes a designation of the requested amount as an emergency and essential to support activities in Iraq and Afghanistan.

(d) TRANSFER AUTHORITY.—(1) Of the amount authorized to be appropriated under subsection (b)(7) for transfer, no transfer may be made until the Secretary of Defense consults with the Chairmen and Ranking Members of the congressional defense committees and then notifies such committees in writing not later than five days before the transfer is made.

(2) The transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense.

(e) MONTHLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees each month a report on the use of funds authorized to be appropriated under this section. The report for a month shall include in a separate display for each of Iraq and Aghanistan, the activity for which the funds were used, the purpose for which the funds were used, the source of the funds used to carry out that activity, and the account to which those expenditures were charged.

Mr. WARNER. Quickly, our colleagues are pretty well familiar with this, but I will take a short few moments to address it.

When the administration presented its budget request for fiscal year 2005 in February, the request did not include funding for costs associated with the ongoing global war on terrorism. This is in keeping with longstanding tradition of funding ongoing military operations through supplemental appropriations. At that time, the administration stated that it expected to request a supplemental to cover these costs, after the start of calendar year 2005. Prior to the passage of a supplemental, the administration planned to cover the cost of the war with funds from other military accounts—a process commonly called ''cash flowing.'' Administration officials stated in February and March that ''cash flowing'' ongoing military operations presented acceptable and manageable risk.

On May 5, President Bush announced his intention to request a $25 billion contingent reserve fund for fiscal year 2005 for United States military operations in Iraq and Afghanistan. The President stated that, ''While we do not know the precise costs for operations next year, recent developments on the ground and increased demands on our troops indicate the need to plan for contingencies. We must make sure there is no disruption in funding and resources for our troops.'' In my judgment, this is a prudent course of action, and it has my strongest support.

It is important to note that, even with this reserve fund, the administration will still request a full fiscal year 2005 supplemental after the first of the year, when it can better estimate the costs of the ongoing war on terror.

When the President made his announcement 3 weeks ago, the committee was in the process of marking up the fiscal year 2005 national defense authorization bill. At the request of Senator BYRD, the committee deferred action on this request for additional funding until we could hold a hearing to receive more information on this request.

On Thursday, May 13, the committee held a hearing on the administration's amended budget request. Committee staff then met with administration and Defense Department officials to address concerns raised by committee members during that hearing. After careful study of the administration's request and consultation on both sides of the aisle, the committee supports inclusion of a $25 billion reserve, with some additional restrictions and reporting requirements.

As proposed by the administration, this contingency reserve fund would essentially have been a $25 billion transfer account. Many members expressed concern over this in our hearing. As drafted, the amendment requires that $22 billion of the fund be spent on specific accounts. Only $3 billion would be in the form of a transfer account which could be spent only after prior consultation and notification.

Increased demands on our troops, particularly in Iraq, have led to concerns that additional funding may be needed prior to the start of calendar year 2005, thus the need for contingency funding. As proposed, the contingent emergency reserve fund would act as a ''bridge'' between the fiscal year 2005 budget request and the fiscal year 2005 supplemental expected in February 2005.

Without a contingent reserve fund, to mitigate the risks, the department may be forced to ''cash flow'' ongoing operations with other funding sources until supplemental funds are appropriated, which could be well into the second quarter of fiscal year 2005. Ongoing procurement programs, modernization efforts, and even training could be adversely affected from having to pay up front for ongoing military operations in Iraq and Afghanistan.

I agree with the President that our first commitment must be to America's security and that our troops ''have the resources they need, when they need them.''

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me commend my good friend, the chairman of our committee, for this amendment. This amendment is very much needed, first of all. We know we are going to need these funds for the operations we are planning in the next fiscal year.

The budget that was submitted to us in January did not have the extra funding which we knew would be required because of our operations in Iraq and Afghanistan. Many Members pointed that out. Indeed, I wrote a letter to the Budget Committee on February 24th pointing out the budget request for Defense represented a reasonable estimate of the cost for supporting the normal operations of the activities, but that the request does not include any request to support the incremental costs of our military forces for continuing operations in Iraq and Afghanistan.

At that point, the administration indicated it would not seek any additional funds, supplementally, to pay for these incremental costs this calendar year. It was their intention at that time to wait until the next calendar year to do that. I, and many others here, thought that was not a responsible way to budget. There was a political tone to it because it delayed paying the piper for the costs of this war until after the election, and there was no point in being that disingenuous about what we all know is going to be required.

I very much support—and I think every Member of this body supports—paying for the needs of our troops, regardless of what one's position is as to how we got to Iraq, how we are doing in Iraq, whether we ought to be doing things differently in Iraq. Regardless of the difference of position of Members of this body on those subjects, when it comes to the support of the operations of our forces and their pay and benefits and needs, I think there is overwhelming if not total unanimous support for funding those troops.

The recent approval by the Department of Defense of increased force levels in Iraq has made this need even more urgent. Even before the Department approved the additional 30,000 troops, approximately, for Iraq, there was an acknowledgement by the uniformed military leaders that the additional costs of ongoing operations in Iraq and Afghanistan are approximately $4 billion to $5 billion per month. So there was no reason, in terms of sound budgeting, for us to hide that fact from the American people.

Just to give one example of that, a recent headline, which perhaps says the whole thing, from the May 5 Washington Post read: ''138,000 Troops to Stay in Iraq Through 2005.'' Well, that kind of says it all. We need this supplemental because we know there is going to be that many troops—more than planned at the time this budget was submitted to us—staying in Iraq through 2005.

The fact that we do not know the exact, precise amount for the operations in Iraq and Afghanistan is not an excuse to do nothing. Of course we do not know precisely the cost, but we know approximately the cost from our experience there. We have estimates of these costs from our uniformed and civilian leadership now that the civilian leadership is committed to this course of action.

One thing we do know for certain: We know, for certain, the amount in the

President's budget—which was zero—is the wrong number. We don't know whether the right number is going to be $4.8 billion or $4.9 billion per month, but we know the approximate number, and we know what is $4 billion to $5 billion short per month, which is what the President's budget was.

Both the House and the Senate, in their budget resolutions, advanced the ball on this issue. The Senate made $30 billion available on a contingent basis if the President requested the additional funds, as he now has. That was intended to be approximately half the year so we would not have to use funds forward from accounts early in the year, leaving those accounts short later in the year.

It was my belief that if we added just 6 months of what we knew would be the supplemental amount needed, that would be enough for us to then, early next year, adopt a supplemental appropriations bill for the balance. The amendment that Senator WARNER and I and Senator STEVENS are now offering authorizes the level requested by the President, which is $25 billion, which is within the Senate-passed level of $30 billion.

Again, we know this money is not going to be enough to cover all of fiscal year 2005, but it will cover at least, we expect, October 1—the beginning of the fiscal year—through January 31. Since Congress is scheduled to be out of session during that entire period, we would not be in a good position to act then. We are in a position to act now, and we should do so.

The budget request from the President was really a blank check. We have amended it, changed it, modified it in many ways. First of all, it is more detailed. We assign money from two various accounts, such as operation and maintenance, such as personnel.

The amendment we are offering also does not allow the administration to move money around as it wanted to with total flexibility. We have put limits on their ability to move money within that account, as we should in terms of carrying out our responsibility as the appropriating and authorizing body.

This amendment is more structured, more stringent and, I believe, more responsible from a legislative point of view than was the proposal that was given to us by the administration. We allocate the $25 billion: $14 billion, for instance, for operation and maintenance armor, which is the biggest chunk of money needed. And everybody acknowledged that was the biggest chunk. But the administration proposal provided that after we listed all these allocations between Army, Navy, Marine Corps, Air Force, and so forth, that—and this is what their proposal read:

In addition to the transfers authorized in the previous proviso, after consultation with the director of Office of Management and Budget, the Secretary of Defense may transfer the funds provided herein to any appropriation or fund of the Department of Defense or classified program.

So after looking as though it was allocating the $25 billion to various accounts, the language which was submitted to us, which we are now deleting, would have in effect given the administration and the Department of Defense a blank check because it said, in addition to the numbers enumerated, they can, after consulting with themselves—that is, the Department of Defense consulting with the OMB Director—move the funds provided to any appropriation or fund of the Department of Defense.

Again, that was the definition of the blank check. We have eliminated that language from the proposal that was submitted to us by the administration. It was the responsible thing to do.

Our amendment basically reflected the same numbers that the administration proposed. For instance, the Army's operating funds, which were the primary reason that we need these funds this year, are now guaranteed, if we can, of course, get this passed in the Senate, get it passed in the House, signed by the President. This will be guaranteed to the Army for their operating cost this year. That will avoid some of the real problems which we would have had otherwise in spending next year's money this year, borrowing huge amounts of money, disrupting normal activities in the Army and the other services in order to cash-flow expenditures.

If we did not provide more funding when needed, there would have been a very real chance that the Army, possibly the Marine Corps Special Operations Command, could be out of funds by the time the Congress would be ready to act next February.

So this is the right thing to do, to act now for our men and women in Iraq and Afghanistan who need and deserve the support, for those serving in the United States and in other locations around the world from whose budgets funds would have been borrowed to provide the support if we do not act.

Finally, the Secretary of Defense is now authorized the additional 30,000 extra Army personnel. What this budget does is to recognize that fact. It was appropriate that the administration acknowledged that those troops were going to remain in Iraq. That is a fact of life. And that being a given—that is the reality—it seems to me we are now carrying out our responsibility to our troops by reflecting that reality with the funds that we are hereby authorizing this year and not simply delaying until next year when a number of undesirable effects could have been felt and surely should be avoided. Our troops deserve a lot better than our stealing from next year's funds to pay their costs this year, when we should be budgeting this year for this year's cost. That is precisely what we are doing now.

I thank particularly our uniformed leadership. General Abizaid appeared in front of us. He was very direct when we asked him what the additional funding needs were. He indicated that, after accounting for the extra approximately 20,000 troops then, he expected the monthly rate of spending to be even higher than it had been up until then.

And it is because we were able to get such testimony from our uniform leadership that I think that spurred us on and encouraged us to insist that we be responsible in the authorizing bill this year rather than simply saying, well, we will steal from next year's funds and take up a supplemental next year. We are going to need the money. This isn't the final answer. It is the first installment. Again, I emphasize this is just the first 5 or 6 months. There is going to have to be a supplemental next year. But we will be able to pass that when we come back in the beginning of next year and not force our services to steal from future funding in order to pay for the needs that are going to exist at the end of this year.

So it is a foreseeable problem. We are acting now to avoid it. It is the responsible way for this body to act. I commend Senator WARNER, again, for his leadership on this amendment, Senator STEVENS, and the willingness to put this together on a bipartisan basis.

I ask unanimous consent that a letter I wrote to Senators NICKLES and CONRAD be printed in the RECORD.

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

DEAR DON AND KENT: In accordance with your request, I am forwarding my recommendations for the fiscal year 2005 budget resolution.

I believe that the President's defense budget request for $420.7 billion represents a reasonable estimate of the cost of supporting the normal operations of the activities within the national defense budget function for fiscal year 2005. However, this request does not include any request to support the incremental costs that our military forces will incur in continuing operations in Iraq or Afghanistan. Administration officials have further indicated that they do not intend to seek any funds for a supplemental to pay for these incremental costs this calendar year.

There are a number of potential military personnel benefits issues that we will need to address in the authorization and appropriations process to accommodate a number of concerns. I believe, however, that having a budget resolution total the same as that requested by the President should provide sufficient funding to address these issues.

What it will not permit us to do is address the costs of the ongoing war in a responsible manner. We should provide for those costs that we can reasonably predict our forces will incur. We should not force our armed forces to rob from existing requirements to pay for these operations on a ''cash flow'' basis.

Our nation's armed forces have been heavily stressed again this year in supporting the war on terrorism and supporting operations in Iraq and Afghanistan. To that end, Congress provided an extra $65 billion to support these operations during the current fiscal year. There are concerns about whether these funds will even be sufficient to cover all of the incremental costs of the war until the end of fiscal year 2004. We should not be counting on excess carry-over funding from

this previous supplemental to provide sufficient funding to address these problems in fiscal year 2005 until a mid-year supplemental can be enacted.

At hearings before the Senate Armed Services Committee earlier this month, three of the chiefs of staff of the Armed Services expressed concern about waiting until after the end of calendar year 2004 to submit a supplemental budget request. I believe that we should listen to those concerns. We should not wait until some time during fiscal year 2005 to submit a supplemental budget request as the Administration did last year. Circumstances are different this year. Last year, the war had not begun. Now, having U.S. troops on the ground is a fact and recognizing this reality and paying for it is the responsible thing to do.

While it is certainly true that no one can predict with precision what these fiscal year 2005 costs will be, we could certainly provide funds to cover likely requirements for some period of the year. This would allow the Administration an opportunity to submit a supplemental request to cover the balance of these costs and for Congress to review and act on.

I suggest increasing the budget authority in the national defense function by $30 billion in fiscal year 2005, specifically to cover up to six months of the incremental costs, at the current pace of operations, of the ongoing operations in Iraq and Afghanistan. It is the responsible thing to do for our troops and for budget accuracy.

Sincerely,

CARL LEVIN,
Ranking Member.

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have come to the Senate floor to support the amendment offered by my good friend, the chairman of the Armed Services Committee, Senator WARNER from Virginia.

This amendment will authorize appropriations for a $25 billion contingent emergency reserve fund. It is an amendment I am proud to support. It is not often, I might add, that the chairman of the Defense Appropriations Subcommittee comes to the floor of the Senate to support an amendment from the chairman of the Armed Services Committee, but maybe we will set a new trend this year and I will welcome his support when we get to the floor.

But, in any event, this amendment is in direct support of our ongoing military operations in Iraq and Afghanistan, and it is limited to that. It should be adopted. It covers emergency concepts in Afghanistan and Iraq.

It is important that the Congress act on the President's request for this reserve fund. It will ensure that our men and women in uniform continue to have the resources they need. We have worked very hard to make certain that was the case in the past. This serves as a clear, unambiguous signal that while our troops are deployed and in harm's way, they will have the unequivocal and unwavering support of the Congress.

I believe it is important to support the President's request. It is a different type of concept. I want to be sure Members understand. It is not a blank check. It is one that is well defined, in a request that came to the Armed Services Committee and to the Appropriations Committee. The Armed Services Committee held a hearing on this issue with both civilian and military witnesses from the Department of Defense and the Deputy Director of the Office of Management and Budget, and the chairman is commended for holding that hearing. The bill now before us is the result of the Armed Services Committee's consideration.

This morning, the Defense Appropriations Subcommittee also held a hearing to fully consider the President's request for this contingency emergency reserve fund. I was pleased to point out to our committee that this is a continuation of what we call the IFF that we created before both in 2003 and 2004.

This amendment is for the 2005 appropriations. We intend to include some form of a reserve fund as part of our fiscal year 2005 Defense appropriations bill. Although this has come as a supplemental request, we will add it to the 2005 appropriations bill, and our subcommittee has agreed to that, in effect, this morning.

The exact form of the reserve fund is being reviewed by our Appropriations Subcommittee on Defense, but I assure the Senate that our Appropriations subcommittee will provide our armed services the funds they need, as requested by the President. Second, we will provide adequate and reasonable financial flexibility. Third, we will provide for full and fair congressional oversight.

We have developed, I believe, bipartisan support for this request of the President's this morning in our hearing before the Appropriations Committee. Certainly, the developments on the ground in Iraq make it plain that there is an absolute need to plan for contingencies. Our military commanders have prudent operational plans, but they must be prepared to respond to the dynamic events that are going forward now in Iraq. We can expect nothing less of our military leadership, and the Congress must give them the tools they need. This reserve fund will do that. It is a fund that is available for emergencies. They have funds available for the predictable needs of the military. These funds are for the unpredictable needs of the military over the period beginning in 2005.

The troops that are there are doing hard work. They must not find that fiscal issues might impede their doing the job they have to do in Iraq at this time. They should not be constrained in any way by the availability of money. The last thing I—and I believe all Senators—would want would be for an operational commander to be concerned about whether there is enough money to do the job he has to do in an emergency.

This is an emergency fund. It does not mean they can add to the money they have automatically through regular appropriations without finding first—and the President must find—that there is an emergency for this money to be released. But it will be there. It will be a means where the President, on request, can notify the Congress with 5 days' notice that he intends to put some of this money to work.

I pointed out to our committee this morning, there have been 33 times that IFS funds have been released by the Department of Defense before on request of the President. Now we must provide this same kind of contingency emergency reserve fund because the alternatives available are too risky. The alternative would be we would have to meet and pass a separate bill, another supplemental. We want the reserve fund to be there for emergencies that could occur. I point out to the Senate, it may be that we would be out of session during that period. I hope we are out of session after the election. I have to stop and say that. I do think the concepts of the past, whereby the President has used the food and forage concept to dip into funds that were available for training for the next year or dip into funds for procurement, the President has that power. He can go to any fund that is available to meet an emergency.

This is to foresee that, to foresee the interruption of plan development, plan utilization of our forces, training of forces in order to get moneys for an emergency.

That practice should be avoided. I don't say it is wrong, but to borrow money from the third and fourth quarters to pay for urgent bills of the first and second quarters is not the way to do business. We set up a fund and say, if there is an emergency, tell us what you are going to use the money for and use it, unless we say no.

I applaud the decision of the President to ask for these resources now. I am one who went to the President and the administration and asked them not to send a supplemental for 2005 because I believe we should not have that until the first quarter of the next year. We thought we had enough money to go through this calendar year, but because of the turn of events in Iraq, that is not the case. The President decided the option of waiting was too risky, and he has asked us to provide this fund as a reserve fund. The President made the right choice. It was not an easy decision.

The people who have reviewed this so far in both committees, Armed Services and Appropriations, have agreed that the armed services need this flexibility to have funds available in an emergency and for use only in Afghanistan and Iraq. It is a good concept. I applaud the Senator from Virginia in offering the amendment, and I urge the Senate to adopt his amendment.

I yield the floor.

Mr. WARNER. Mr. President, I thank the distinguished chairman of the Appropriations Committee and his colleagues for supporting this issue. As he most eloquently stated, the purpose is clear. It is to avoid the repetition of the past where we have gone into the forage fund to meet contingencies. We know they exist today. It is best we face up to it and put it on record.

Mr. LEVIN. Mr. President, while the Senator from Alaska is in the Chamber, I thank the Senator for his work on the Appropriations Committee relative to this subject. As I indicated, I think the testimony before his committee indicated—I believe this morning—that we know it is about $4.7 billion or $4.8 billion at the current level of spending that we will need above what was in the budgeted amount. This provides that additional funding. It is the responsible thing to do. It has strong support on this side of the aisle as well as his. That is the way it should be when we have men and women in harm's way.

AMENDMENT NO. 3258

Mr. WARNER. Mr. President, I thank my distinguished colleague. At this time, I suggest that we go off of the Warner amendment, which I ask be laid aside, and return to the pending amendment by the Senator from South Carolina, at which time I think a number of colleagues are anxious to address the Senate.

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

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I rise in opposition to the amendment offered by my friend Senator GRAHAM of South Carolina, the so-called TRICARE amendment offered by himself and Senator DASCHLE. I have great respect for both Senator GRAHAM and Senator DASCHLE. I just oppose their amendment.

The amendment is very expensive. Their amendment costs billions and billions of dollars. Their amendment, in my opinion, is a serious mistake. I can see where people would say: I want to vote for it. I want to show my support for the National Guard.

I also want to show my support for the National Guard, but we do show our support for the National Guard in this bill. We take care of their health care. If they go on active duty, we take care of their health care. That is a Government expense. They don't have copays. We take care of them.

In fact, when they sign up and go into active duty, we take care of them. But this is when they are on inactive status, when they basically show up for 2 days a month.

I used to be in the Guard. I also used to be in the private sector. I was in the private sector during the month, for 28 or 29 days of the month, and then in the National Guard for 2 days of the month. I think the primary responsibility for health care should be on the employer for the 28 or 29 days of the month, not on the Government because somebody served for 2 days in a month.

Incidentally, if you are on Guard duty and you are injured, they are going to take care of you. If you are climbing hills, or practicing at a gunfiring range, and you are injured, you will be taken care of. If you are on 2-week duty during the summer and you have an injury, they are going to take care of that. Those expenses are covered.

So, basically, do we want to take care of an individual who happens to be in the Guard or Reserve and pay for their health care throughout the year for thousands of dollars?

TRICARE costs $7,000 or $8,000 for a family. Should that be the Federal Government's responsibility if an individual is serving only 2 days a month? Under the pending amendment, it would be the Federal Government's responsibility.

Eighty-some percent of Guard and Reserve members have health care. So this would be a great motivation for people who may be in the private sector to say: Since you are in the Guard or Reserve, we don't have to pay for you. Thank you very much, the Government will pay for yours—even though you work for this company or this organization for 28 days a month and you work for the Government 2 days a month. Why should the Federal Government pick up 100 percent of that cost?

Then when you have the transfer from the private sector health care coverage to the public, wow, it gets expensive. The cost was already mentioned. I think CBO estimated it at almost—I have one cost at $696 million for 2005, and $5.7 billion for 5 years, and $14.2 billion over 10 years. So it adds to the bill. It either adds to the deficit or it crowds out other defense spending. That other defense spending might be replacement munitions or body armor or new technology for night vision—who knows. It is saying we want to take care of these individuals' health care even when they are in inactive status. That is a mistake.

Senator WARNER's bill takes care of them when they are activated. They are given physicals. We pay 100 percent of it. We take care of our Active-Duty men and women. If they are activated, we should take care of them. I believe Senator WARNER's bill takes care of them for several months after Active-Duty status.

To say we want a new Federal entitlement saying if you sign up for the Guard or Reserve, we are going to pay up to 72 percent of an individual and their family's health care cost, at a cost estimated to be $7,700 in benefits under the TRICARE program, with individuals paying 28 percent, this gets real expensive. It spends billions and billions of dollars. It would be transferring money. This money has to be appropriated. Defense is only going to get so much money. I am afraid we will be crowding out some of the money needed to protect our men and women in the field. We protect our men and women in the field who are on active duty. We give them the best quality health care we can. They don't have to pay anything.

I don't believe the Federal Government should pay for an individual and/or their families' health care cost for a month because they do 2 days a month of Guard duty.

I think it is a serious mistake, especially when the private sector already provides it for over 80 percent of those individuals. You may be able to score political points, but this is not money well spent. We should use our money to maximize our defense capabilities. This will spend a lot of money, saying let's have the Federal Government pay for the health care cost of Guard and Reserves, instead of having the private sector pay for it, even though they work for the private sector 90 percent of the time during that month. I don't think we can afford it.

I urge my colleagues to vote in opposition to the so-called TRICARE amendment at 3:45.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to our distinguished colleague from Alabama such time as he may require, to be followed by our distinguished colleague from Oklahoma, with the understanding that the vote will commence, as described under the standing order, at 3:45.

The PRESIDING OFFICER. The Senator controls 5½ minutes in opposition. The Senator from Alabama is recognized.

Mr. WARNER. Mr. President, I will seek additional time for my colleagues if that becomes necessary.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I join with the chairman of the Armed Services Committee, Senator WARNER, in his concern over this TRICARE amendment for our Guard and Reserve. I had 10 years in the Army Reserve. My chief of staff is a retired lieutenant colonel. We have discussed these issues a lot—what we can do to help our Guard and Reserve. But a $14 billion expenditure over 10 years for this one project is not the best way to spend $14 billion to help the Guard and Reserve.

I have met with top generals in command of our Guard and Reserve. As a member of the Armed Services Committee, and as a person who cares about improving the quality of life of our superb Guard and Reserve members, I care about it deeply. I want to make their lives better. I want to make serving through retirement and beyond minimum retirement time attractive for them. I want their lives to be happy and as fulfilling as possible. We need to reward them financially in every way we possibly can.

To take $14 billion and in effect have it spent for a lot of people who already

have good health care insurance is not a smart way to do it. It is not the right way.

I have asked the leadership of the Guard and Reserve and the Department of Defense to help us develop a package of bills that will be beneficial to a broad-based number of our Guard and Reserve. They do terrific work.

When I was in the 1184th in Mobile, our drills and work got tougher and tougher every single year. More was demanded. That is why they are so excellent in performance today.

I really believe in what they do. The skill level is higher than it has ever been. The training is better than it has ever been. They are better equipped than they have ever been. They are performing better in difficult situations than we have ever seen before, and I am proud of them, but this is not the best way to go about this.

I know there is a concern about this issue. I believe we can address it. I believe the chairman has come up with a way we can address this issue. That is what we need to do.

Let's listen to that. Let's not commit the funds for this one particular problem for 20 percent of the Guard and Reserve, those who do not have insurance today, and drain this large sum of money we could use in another fashion.

I thank the chairman for his leadership, and I give my support for the $25 billion supplemental. I believe it is the right thing to do. It will allow our Defense Department to proceed. It will make sure our equipment that has been damaged in the course of this is repaired and maintained.

I yield the floor.

Mr. WARNER. I thank my colleague from Alabama, as well as the senior Senator from Oklahoma, and now I am privileged to have the wisdom of the junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I appreciate the time.

I think one thing the last three speakers, including myself, have in common is no one has been more highly supportive of the Guard and the Reserve than Senator NICKLES, Senator SESSIONS, and myself. In fact, I daresay I probably have spent more time talking about the dilemma of the Reserve component in all of the deployments as we continue this, and the reason we are having to do it is because we are, of course, at war.

During the 1990s, we saw what happened to the military. It went down and consequently we had an end-strength problem. We are now talking about maybe 30,000 more troops and we are going to have to do something to help the Reserve component. Most of these people are gainfully employed. They have occupations. We cannot expect them to continuously be deployed while at the same time the employer is letting them go. That is the whole idea of a Reserve component.

So although I oppose this amendment, I have to qualify it by saying how much I have always supported the Guard and the Reserve. I think all members of the Guard and Reserve, certainly in my State of Oklahoma, are aware of that.

I just returned from Afghanistan where the 45th is stationed. They are doing a great job training the ANA to fight their own battles. They are doing a tremendous job. The problem is this does not have to happen in a vacuum. If it happened in a vacuum and we were able to give them full-time TRICARE, I would vote to do it in spite of the fact there would be, as my senior Senator from Oklahoma stated, many people who would go ahead and drop their coverage, saying the Government already supplies it, and that would be a problem.

They talk about the costs being $11 billion, $12 billion, and as high as $18 billion. That is because we have yet to have any kind of a study to see how many people are out there who already have coverage or how many people are out there who actually would want to even have this coverage.

Our chairman and our committee did a great job—it has not been said on the floor enough—because in this area of TRICARE, 90 days prior to deployment they have coverage. For 6 months after coming back, they have coverage. So it is not something we have not already looked at and decided to be very fair. I think we have a good compromise that is in the mark that is up for consideration on the floor today.

I say to my good friend from South Carolina, he has another amendment that frankly I am very much for. It is one having to do with the movement of nuclear waste. I think he is dead right on it. That was a good policy until the National Resource Defense Council came in and filed a lawsuit against the DOE. Before then, everything was going fine. This would rectify that problem. This amendment is being offered by Senator GRAHAM of South Carolina. I am a strong supporter of that particular amendment, but on this amendment one cannot assume this is going to happen and it is going to come out of nowhere.

We have to come up with $11 billion, $12 billion, $14 billion, or $18 billion somewhere. It has to come out of Defense. This is the problem we have. I served as the chairman of the Readiness Subcommittee all during the 1990s, and I saw what was happening to our military, knowing one day this day would come and we would have to make some decisions regarding end strength, modernization, and all of the other programs that are bleeding today.

Now if the Senator from South Carolina wants that money to come out of the MOX, mixed oxide, fuel facility in South Carolina, $368 million is authorized in this bill, maybe he feels strongly enough about it he would like to do that, or the waste incidental to reprocessing the WIR program, $350 million. These programs I am sure are worthwhile, but the money has to come from somewhere.

My fear is it will come out of the modernization account, and right now I think we all know some of our potential enemies and adversaries out in the field are better equipped than we are. We have to correct this thing. So the money has to come out of somewhere. It is going to have to come out of some of the Defense accounts.

I feel sorry for our chairman, Senator WARNER, who is going to have to lead us in making some decisions on where to make cuts if this amendment passes. It is very serious.

Again, there is no stronger supporter of the Guard and Reserve than I am, but this is something that is more money spent and not directed properly and it has to come out of some place where we have a very serious problem. There is nothing free in this bill. I do not know of any Guard and Reserve members from my State of Oklahoma who have talked to me about this and have offered places it should come out of or even called me up to support it.

It is an amendment that is going to have to be defeated. We need to save all the money we can in order to keep our current authorization program. There is nothing we can cut, that I can think of right now, that would be appropriate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask the distinguished chairman if I might have 30 seconds.

Mr. WARNER. First, I thank my distinguished colleague from Oklahoma, as well as those we have just spoken. These are individuals who, like me, have first and foremost in their hearts the welfare of the men and women of the Armed Forces in every possible way, but we must also bear in mind the fiscal realities with which we are confronted, the equities between the balance of benefits to the Active Duty and Reserve and the Guard and the need at this time.

It is available should anyone want it, but it has to be on a shared-cost basis with the taxpayers of the United States.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, there are 7 minutes remaining under the control of the proponents of the amendment. Who yields time?

Mr. WARNER. I suggest the distinguished Senator from Vermont be given such time as he may consume.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM of South Carolina. I would like a couple of minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I will be very brief so the Senator from South Carolina can speak.

Mr. President, I agree with the distinguished chairman of the Armed

Services Committee. As he knows, I came from the funeral of a Guard member in Vermont, and I might say to my distinguished friend, the senior Senator from Virginia, the widow of this Guard member was very touched by a message the distinguished Senator from Virginia had expressed to her via me, and I appreciate that. It was his typical generosity of spirit to do so. It tells me in the war on terror, our Guard and Reserves are a 21st century fighting force, but they have a 20th century health insurance, and this partnership with Senator GRAHAM of Florida, Senator DASCHLE, Senator CLINTON, and others has been very good. I hope it will help.

For the past 2 years, we have worked to expand the availability of health insurance to members of the 800,000-person National Guard and Reserve. It is squarely and strongly in our national interest, as well as in the interests of our Guard and Reserve soldiers and their families, to ensure that this force is strong, that our citizen-soldiers are healthy, and that these proud men and women know that there is an extensive benefit network to reward them for their sacrifice.

Two years ago, a GAO study found that almost 20 percent of the reserves, more than 150,000 citizen-soldiers, do not have access to adequate health insurance when they are on drilling status. The bulk of the uninsured reside in the lower ranks, and the study reported that almost 40 percent of the enlisted force in uninsured. In other words, many of the men and women who are prepared to leave their full-time jobs and their families at a moment's notice have no assurance of having access to basic health insurance.

Our Guard and the Reserves are doing more for us than ever before, both at home and abroad. In fairness to them and their families, and in the interest of military readiness, these health care upgrades should be a high priority.

Last year, I was pleased to be part of a bipartisan coalition that worked and succeeded in enacting a strong program to allow members of the Guard and Reserve, who are unemployed or do not have access to health insurance through their employers, to be able to buy into the military's TRICARE program on a cost-share basis. This program guaranteed that every member of the Guard and Reserve would have insurance access from some source, whether from their employers or through the military.

It was surprising and disappointing to me that the administration opposed this program last year, going so far as to threaten a veto of the Defense bill. I am even more disappointed that the Department of Defense has still yet to put the TRICARE buy-in program for reservists in place. That sends a terrible signal to the members of the Guard and Reserve who comprise a substantial portion of our forces deployed abroad and who stand ready to face other national emergencies as they arise. We need to get this program going and to expand it even further, and without needless delay.

This amendment will open up the TRICARE cost-share program to every member of the National Guard and Reserve, providing an affordable source of insurance to every reservist. The amendment also allows the families of activated reservists to maintain their civilian health insurance, which will reduce some of the invariable turbulence from deployments.

This amendment mirrors almost exactly what passed out of the Senate 87 to 10 last year. Since then, the Guard and Reserve have been tapped even more heavily to carry out the military occupations in Iraq and Afghanistan.

I urge the Senate to vote in favor of this critical readiness initiative.

I yield the floor.

Mr. WARNER. Mr. President, I wonder if I might be allowed one-quarter minute to reply to my colleague from Vermont?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. My colleague very kindly referred to our conversation earlier today when he, as every Member of this Chamber, has taken time to attend funerals in their respective States for those who lost their lives in the conflicts now ongoing, principally in Afghanistan and Iraq.

I mentioned to him a soldier's grave at the Battle of Normandy. It was a British soldier, and he was killed in the invasion. As custom in the British military, the families may put a brief inscription on the tombstones. On this tombstone is the phrase:

To the world he was known but as one. To his family he was known as the world.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the proponents of the amendment have 4½ minutes remaining. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, following those eloquent words of the chairman, this is not about who cares about our military; we all do. This is about priorities and what we are going to do when we say we care.

The law of the country is such that, if you are a part-time Federal employee working 16 hours, you are eligible for Federal Government health care. If you are a part-time citizen soldier training to defend your country, answering calls for hurricanes and natural disasters in your State and providing homeland security, you get zero. We need to fix that.

The committee bill puts a proposal on the table that goes as follows: The guardsmen and reservists pay some; the employer pays the other 72 percent. Your Government doesn't contribute 1 penny to the health care needs of the Guard and Reserve community. Mr. President, 25 percent of the Guard and Reserve called to go on active duty can't go because of their lack of health care. We need to invest in their health care because they are keeping us free.

Medicare has a $400 billion prescription drug benefit that has just been passed. I voted no because I am worried about the explosive cost to the future and our grandchildren not being able to afford it. I got outvoted. It is a program that is in existence. You can sign up for a discount card today. You ought to look into it.

We gave $20 billion to the Iraqi people who are sitting on $1 trillion worth of oil and we are not asking for 1 penny back in payment. We are going to build schools, roads, highways; we are going to spend $25 billion—more, probably, before the day is over—supporting our troops to support Iraq.

Our bill allows Guard and Reserve families and Guard and Reserve members to be part of the military health care system year round. When they are not called to active duty they have to pay a premium of $1,800 a year for their family, just like a part-time Federal employee. People in Iraq are not paying anything back. It is a total gift.

Mr. President, $400 billion to provide discounts for every senior in America—$400 billion. This costs $1 billion a year for 300,000 families. There are bills in this Senate and this House where one bridge costs more than the health care program needs of 300,000 families.

I will take a backseat to no one about trying to save taxpayer dollars. I would argue, if the taxpayers could be here today and if they could vote to spend this $1 billion to make sure the citizen soldier is treated as every other part-time Federal employee, they would say: Here is my wallet, take what you need. This idea we can't afford it is bogus.

Mr. NICKLES. Will the Senator yield?

Mr. GRAHAM of South Carolina. Absolutely.

Mr. NICKLES. Is there any job in the Federal Government where an individual would work 2 days a month and receive $7,000 or $5,000 worth of benefits in health care?

Mr. GRAHAM of South Carolina. The way the program works, you can be a temporary employee working 16 hours, work a year, then get health care, and you pay a premium. If you work 16 hours a week, you can get full-time health care benefits paying a premium. What a Guard member does, he works 2 days a month, 2 weeks a year, and 40 percent of the people in Afghanistan and Iraq come out of that pool. Now they are getting killed. It is not an average, everyday part-time job. The people who are left behind, the families, take a pay cut. The average Guard and Reserve member, when they get called to active duty their pay goes down, but they don't complain. They go, I say with all due respect.

Mr. NICKLES. Will the Senator yield for additional question?

Mr. GRAHAM of South Carolina. Yes.

Mr. NICKLES. If somebody is activated and they go to Afghanistan or Iraq, don't they receive full health care costs without paying the 28 percent?

Mr. GRAHAM of South Carolina. They do, and when they come back home because of what we did last year they get health care for 6 months. But after that 6 months, 25 percent of them go back into the civilian world where they have no health care, zero. That is not right. That is not like every other Federal employee who is part-time. That is not right and we cannot afford to let that continue to happen because we are going to be needing these men and women more than ever. Their families are stressed. This is a chance to spend a little bit of money on people who are giving everything, including their lives and their limbs.

Mr. STEVENS. Mr. President, I rise today to discuss the Daschle amendment which would provide TRICARE benefits for reservists and their family members while in a non-active status, and direct the DoD to pay private insurance premiums for reservists when ordered to active duty. Under the Graham/Daschle proposal, if enrolled in TRICARE, Reserve members would pay 28 percent of the annual premium and the Department of Defense would pay the remaining 72 percent.

The benefit is cost prohibitive. CBO recently estimated the benefit would cost $700 million in fiscal year 2005, $5.7 billion over 5 years; and $14.2 billion over 10 years.

The Department of Defense estimates are much higher, at $1.9 billion in fiscal year 2005 and $11.6 billion over 5 years.—About $2 billion a year.

In future years, this enhanced benefit will carve out essential funding that DoD needs to maintain readiness, meet procurement needs, transform the Armed Forces and continue the Global War on Terrorism.

The Senate is already making significant investment in our Guard and Reserve forces. In the fiscal year 2004 Defense Appropriation bill, we provided: $15.1 billion for pay and allowances, $14.3 billion in Operation and Maintenance funding for training, education and support, and about $2.5 billion for National Guard and Reserve Equipment—in total, an investment of about $31.9 billion for the Guard and Reserve.

A substantial portion of this investment is within the active component accounts for equipment and weapons that go directly to our Guard and Reserve forces. These items include: HUMMWVs, LITENING Targeting Pods for Aircraft, Construction Equipment, Heavy Trucks, and Large Aircraft Infrared Countermeasures to defeat shoulder fired missiles—LAIRCM.

If the proposed amendment is adopted, there should be great concern that this enhanced entitlement program will come at the expense of other Guard and Reserve requirements for training and equipping the force.

The chairman's bill already offers several permanent provisions to enhance the medical readiness and ensure continuity of care for reserve members and their families, including a provision that provides the opportunity for Reserve members and their employers to participate in TRICARE while the member is in a non-active duty status—a cost shared by the Reserve member and his or her employer.

The chairman's bill also provides for a demonstration program to determine the need for, and feasibility of providing TRICARE benefits to members of the Ready Reserve who are eligible for unemployment compensation or ineligible for employer-provided health care coverage.

In a September 2003 report, GAO found that DoD data does not identify a need to offer TRICARE to reservists and their families when members are not on active duty. Many of the unknown factors include: the effect on recruiting and retention, the impact on active duty personnel, the impact on the TRICARE system and the military treatment facilities, and the number of reservists that might participate.

The proposed demonstration program and enhanced benefits included in the chairman's bill will clearly enhance the medical readiness and ensure continuity of care for reserve members and their families.

The Department of Defense and Congress should take the time to further study the appropriate level of health care benefits for our Guard and Reserve, and allow the enhanced benefits included in the chairman's bill to be implemented and studied before we commit to spending billions of dollars on a new entitlement program.

The Department is in the process of appointing an advisory committee on military compensation to review these types of issues. I believe it is prudent to conduct these studies before Congress acts on this legislation.

Due to the high cost of the proposal and because of the enhanced benefits already contained in the chairman's bill, I must urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. Under the previous order, all time for debate has expired.

Mr. WARNER. 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 yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. I ask unanimous consent to add the following cosponsors: Senators ALLEN, MURKOWSKI, LOTT, COLEMAN, DEWINE, LEAHY, CLINTON, LINCOLN, CORZINE, DORGAN, BINGAMAN, MURRAY, and LANDRIEU.

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

Under the previous order, the vote will occur on the amendment of the Senator from South Carolina for which the yeas and nays have been ordered.

The question is on agreeing to the amendment. 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 New Mexico (Mr. DOMENICI) are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 70, nays 25, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—70

Akaka	Dodd	Lieberman
Alexander	Dorgan	Lincoln
Allen	Durbin	Lugar
Bayh	Ensign	McCain
Bennett	Feingold	Mikulski
Biden	Feinstein	Murkowski
Bingaman	Fitzgerald	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Graham (SC)	Nelson (NE)
Byrd	Gregg	Pryor
Cantwell	Hagel	Reed
Carper	Harkin	Reid
Chafee	Hatch	Rockefeller
Chambliss	Hollings	Sarbanes
Clinton	Hutchison	Schumer
Coleman	Inouye	Shelby
Collins	Jeffords	Smith
Conrad	Johnson	Specter
Corzine	Kennedy	Stabenow
Craig	Kohl	Talent
Crapo	Landrieu	Voinovich
Daschle	Lautenberg	Wyden
Dayton	Leahy	
DeWine	Levin	

NAYS—25

Allard	Frist	Santorum
Bond	Grassley	Sessions
Brownback	Inhofe	Snowe
Bunning	Kyl	Stevens
Burns	Lott	Sununu
Cochran	McConnell	Thomas
Cornyn	Miller	Warner
Dole	Nickles	
Enzi	Roberts	

NOT VOTING—5

Baucus	Domenici	Kerry
Campbell	Edwards	

The amendment (No. 3258) was agreed to.

Mr. WARNER. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the vote in relation to the pending Warner-Levin-Stevens amendment occur at 6:30 tonight, with no second degrees in order to the amendment prior to the vote.

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

MORNING BUSINESS

Mr. WARNER. Mr. President, would the Chair advise the Senate with regard to the standing order.

The PRESIDING OFFICER. There will now be 1 hour of debate evenly divided in morning business.

The Senator from Nevada.

Mr. REID. 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 majority leader is recognized.

DEDICATION OF THE WORLD WAR II VETERANS MEMORIAL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 369, which was submitted earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 369) expressing the sense of the Senate in honoring the service of the men and women who served in the Armed Forces of the United States during World War II.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 369) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 369

Whereas during the dark days of World War II, the United States, the world, and the very future of freedom were threatened by nazism, fascism, and tyranny;

Whereas a generation of Americans stepped forward to confront this scourge, accepting the call to duty to fight the Axis Powers, to defend freedom, and to put their lives on the line so that future generations could live in peace and freedom;

Whereas during World War II, the brave men and women of the Armed Forces of the United States fought alongside allies from more than 30 other nations to vanquish the tyranny and oppression of the Axis Powers on the sea, on the land, and in the air in distant lands in every part of the globe;

Whereas more than 16,000,000 Americans served in the Armed Forces of the United States during World War II, hailing from every corner of the United States and its territories;

Whereas more than 671,000 Americans were wounded and over 105,000 Americans were held as prisoners of war in that terrible conflict;

Whereas more than 400,000 members of the Armed Forces of the United States made the ultimate sacrifice, giving their lives to defeat the evils of nazism, fascism, and tyranny, and to preserve the United States and the ideals the people of the United States hold true;

Whereas by the end of World War II, the members of the Armed Forces of the United States had become symbols of hope for the victors, the liberated peoples of the world, and their former adversaries;

Whereas the victory of the Allied Powers in World War II paved the way for the growth of democracy and freedom in the defeated nations of Germany and Japan, and laid the foundation for the West to confront, and eventually defeat, the threat of Communism;

Whereas the people of the United States can never fully express their gratitude to all the members of the Armed Services, including the ''Greatest Generation'' of World War II, who have dedicated themselves to protecting the people of the United States and to defending the ideals and principles of our great country;

Whereas 114 veterans of World War II have served in the Senate, including 6 who are currently serving: Senator Akaka of Hawaii, Senator Hollings of South Carolina, Senator Inouye of Hawaii, Senator Lautenberg of New Jersey, Senator Stevens of Alaska, and Senator Warner of Virginia; and

Whereas the Senate, on the occasion of the dedication of the World War II Memorial and the 60th Anniversary of the D-day landings in Normandy, France, is proud to honor its Members, past and present, who served in World War II: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its eternal appreciation for the veterans of the Armed Forces of the United States who fought and toiled to protect the United States and preserve the freedom and way of life of the United States during World War II;

(2) honors the brave men and women who made the ultimate sacrifice and gave their lives in defense of liberty and the United States during that global conflict; and

(3) proudly commends the 108 former Members and 6 current Members of the Senate who are veterans of World War II, including Senator Akaka, Senator Hollings, Senator Inouye, Senator Lautenberg, Senator Stevens, and Senator Warner, for their leadership and service to the United States both in war and in peace.

Mr. FRIST. Mr. President, I ask unanimous consent that following my remarks and Senator DASCHLE's remarks, Senator STEVENS be recognized.

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

Mr. FRIST. Mr. President, I rise to pay tribute to the ''greatest generation''—the veterans of World War II who fought so valiantly to save the world from tyranny. This weekend, thousands of veterans from World War II gathered on The Mall to witness the dedication of a memorial to their heroism and to their sacrifice. Many of us had also the opportunity to join them after the celebration, the recognition ceremonies, with our families on that Mall in tribute to them at this wonderful memorial.

As President Bush said in his remarks to this remarkable group, ''When it mattered most, an entire generation of Americans showed the finest qualities of our Nation and of our humanity.''

It is fitting that Saturday's event was the largest gathering of surviving veterans in 60 years, and perhaps more than coincidental that the spring weather cooperated so beautifully for this truly historic day.

Nearly 60 years have passed since the ''greatest generation'' won that terrible war. It seems inevitable now that America would defeat the forces of Naziism and fascism. Our enemies were wicked and freedom was right. But as President Reagan put it so eloquently in his address on the 40th anniversary of D–Day:

For four long years, much of Europe had been under a terrible shadow. Free nations had fallen, Jews cried out in the camps, millions cried out for liberation. Europe was enslaved and the world prayed for its rescue. Here, in Normandy, the rescue began. Here the Allies stood and fought against tyranny in a giant undertaking unparalleled in human history.

Those were the words of President Reagan. Sixteen million Americans served in the Armed Forces during that great battle. They hailed from every corner of the United States, from the countryside to city streets, from high school graduation classes to suburban family homes.

Mr. President, 671,000 Americans were wounded and over 105,000 Americans were held as prisoners of war. More than 400,000 gave their lives to defend America and to preserve our freedom.

The Senate is honored to have among us men who fought in that Great War:

Senator DANIEL AKAKA of Hawaii, who served in the U.S. Army Corps of Engineers, including service on Saipan and Tinian;

Senator FRITZ HOLLINGS of South Carolina, who served in the U.S. Army as an officer in the North African and European campaigns, receiving the Bronze Star and seven campaign ribbons;

Senator DANIEL INOUYE of Hawaii, whose battlefield heroism earned him the highest award for military valor, the Medal of Honor, along with a Bronze Star, Purple Heart with a cluster, and 12 other medals and citations;

Senator FRANK LAUTENBERG of New Jersey, who enlisted in the Army Signal Corps and served in Europe;

Senator TED STEVENS of Alaska, who was a pilot in the China-Burma-India theater, for which he earned two Distinguished Flying Crosses, two Air Medals, and the Yuan Hai Medal awarded by the Republic of China;

Senator JOHN WARNER, who enlisted in the Navy in World War II and went on to fight in the Korean war in the Marine Corps. Senator WARNER served as a Marine Corps reservist for 10 years and was promoted to the rank of captain.

As newsman and author Tom Brokaw wrote in his best selling book, ''The Greatest Generation,''

They answered the call to save the world from the two most powerful and ruthless military machines ever assembled, instruments of conquest in the hands of fascist maniacs. They faced great odds and a late start, but they did not protest. They succeeded on every front. They won the war; they saved the world.

A veteran at Saturday's dedication on The Mall was asked by a reporter

how they did it. How did ordinary young men set aside their fear in the face of extraordinary odds against fierce and determined enemies? The veteran had been a machine gunner on a pair of bombers that successfully outmaneuvered 12 Japanese fighter planes. He replied simply:

There's nothing else you can do but do your best, and keep firing until the ammunition runs out.

This afternoon, we salute these extraordinary Americans who did their best and kept firing to save America. If they are the ''greatest generation,'' we are the ''grateful generation.'' Their honor, courage, and valor will never be forgotten.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, this last weekend, in the shadow of the Lincoln Memorial, our Nation dedicated a new memorial to the generation of Americans who fought and won the Second World War. One cannot help but imagine the look of respect and approval coming over the face of the great emancipator, the man who ended slavery in our country, as he looks upon a memorial to those who ended enslavement of an entire continent and gave the world a new birth of freedom.

While this honor is long overdue, we must acknowledge that no memorial, no ceremony, no words could match the scope of this generation's achievement. The true monument to their efforts exists not on the National Mall but in the hearts of the hundreds of millions in America and billions more throughout the world who live in freedom thanks to their courage. We are the children of their sacrifice. We have flourished in the Nation they came home to build. The debt we owe them is without end.

The Senate family is blessed, as the majority leader noted, to serve alongside six men who fought for their Nation in World War II:

Senator JOHN WARNER enlisted in the Navy as a 17-year-old in 1945 and later reenlisted in the Marines in the Korean war; Senator FRANK LAUTENBERG, who served so ably as an Army Signal Corps soldier in Europe; Senator DANIEL AKAKA, who served in the Army Corps of Engineers; Senator FRITZ HOLLINGS, who served as an Army officer in the North African and European campaigns, earning a Bronze Star; Senator TED STEVENS, who served in the Air Force, earned two Distinguished Flying Crosses and two Air Medals as a member of the Flying Tigers; Senator DANIEL INOUYE, who saw the smoke rising from Pearl Harbor as a 17-year-old growing up in Honolulu, and served in the Army's 442nd Regimental Combat Team, earning, among so many other high honors, the Congressional Medal of Honor, the highest award our Nation confers for valor in battle.

Whatever debt these men owe their country, their service in a time of war was paid in full. As so many of their generation, their service didn't end when they took off their uniforms. They saw this Nation and indeed humanity at its very best. They saw an effort in which every last person pitched in, every aircraft maker who made a fighter plane, every woman who worked in a factory, every farmer who grew food for our troops, every child who tended a victory garden. They saw with their own eyes the greatness that could be won when a nation of free men and free women worked together to fight for the cause of liberty.

They dedicated their lives to carrying forward that spirit and leading our Nation to still greater heights. That spirit runs throughout the careers of each of these six men, as it has for so many other World War II veterans who have served in this Chamber over the years. Each of us who have had the honor to serve with them can attest that they are distinguished not only by their service in war but by their tireless commitment to ensuring that each successive generation of Americans could enjoy the blessings our free Nation had to offer.

Thanks to their wisdom and leadership, generations of Americans have grown up in peace and prosperity and have learned that in return for their blessings, they too have a duty to give something back to their country. Nowhere is that more clear than in the service of young Americans fighting now in Iraq, whose courage echoes that of the men and women who wore the uniform of their country in generations past.

Ultimately, what we learn from their lifetime of service is the fight for freedom is never finished. If we are to repay their debt to us, we must receive the liberty they won not as a gift but as a challenge to take up their work as our own. We could do our country no greater service than to assume the spirit of unity and decency each has exemplified throughout their long careers. It is a great comfort and joy to know that should we falter or fall short, our friends are still beside us, living monuments to remind us of our duty. Their contributions to America continue undiminished, and they have the undying thanks of the Senate and the Nation it serves.

I yield the floor.

The PRESIDING OFFICER. The President pro tempore.

Mr. STEVENS. Mr. President, I am humbled to be among the Members who have been mentioned by the leaders. I ask unanimous consent that following my remarks, items 1, 2, and 3 be printed in the RECORD. Item 1 is a list of Senators known to have served in World War II. The second item is a list of the eight Senators who have received the Congressional Medal of Honor. On that list is the name of DANNY INOUYE, who was awarded the Congressional Medal of Honor. I will read once again to the Senate the citations my friend received.

Citation from the President of the United States, authorized by Act of Congress, March 3, 1863, has awarded in the name of the Congress the Medal of Honor to: Second Lieutenant Daniel K. Inouye, United States Army, for conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty:

Second Lieutenant Daniel K. Inouye distinguished himself by extraordinary heroism in action on 21 April 1945, in the vicinity of San Terenzo, Italy. While attacking a defended ridge guarding an important road junction, Second Lieutenant Inouye skillfully directed his platoon through a hail of automatic weapon and small arms fire, in a swift enveloping movement that resulted in the capture of an artillery and mortar post and brought his men to within 40 yards of the hostile force. Emplaced in bunkers and rock formations, the enemy halted the advance with crossfire from three machine guns. With complete disregard for his personal safety, Second Lieutenant Inouye crawled up the treacherous slope within five yards of the nearest machine gun and hurled two grenades, destroying the emplacement. Before the enemy could retaliate, he stood up and neutralized a second machine gun nest. Although wounded by a sniper's bullet, he continued to engage other hostile positions at a close range until an exploding grenade shattered his right arm. Despite intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken and his men were again deployed in defensive positions. In the attack, 25 enemy soldiers were killed and eight others captured. By his gallant, aggressive tactics and by his indomitable leadership, Second Lieutenant Inouye enabled his platoon to advance through formidable resistance, and was instrumental in the capture of the ridge. Second Lieutenant Inouye's extraordinary heroism and devotion to duty are in keeping with the highest traditions of the military service and reflect great credit on him, his unit, and the United States Army.

I ask unanimous consent that the third item being his citation of the Medal of Honor be printed in the RECORD after my remarks.

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

(See exhibits 1, 2 and 3.)

Mr. STEVENS. There are few among us who deserve the honor the Senate is according us, and DANIEL K. INOUYE is the first.

EXHIBIT 1

[From the Senate Historical Office, 2004]

UNITED STATES SENATORS KNOWN TO HAVE SERVED IN WORLD WAR II

Abdnor, James (army); Akaka, Daniel (army); Allott, Gordon (army air corps); Andrews, Mark (army); Bartlett, Dewey (marines); Bass, Ross (air corps); Bentsen, Lloyd (army); Boggs, James C. (army); Brewster, Ralph Owen (marines); Brewster, Daniel (marines); Brooke, Edward (army); Brown, Ernest S. (army); Bumpers, Dale (marines); Byrd, Harry F., Jr. (navy); Cain, Harry P. (army); Cannon, Howard (army); Carroll, John A. (army); Chafee, John H. (marines); Church, Frank F. (army); and Clark, Joseph S. (army air corps).

Cook, Marlow (navy); Cooper, John Sherman (army); Cranston, Alan (army); Daniel, Marion Price (army); Dole, Robert (army); Dominick, Peter H. (army air corps); Douglas, Paul H. (marines); Edmondson, James (army); Evans, Daniel (navy); Exon, James (army signal corps); Fong, Hiram (army air corps); Ford, Wendell (army); Frear, J. Allen (army); Gibson, Ernest (army); Glenn, John (marines); Goldwater, Barry (army air

corps); Goodell, Charles E. (navy); Gore, Albert Sr. (army); Gorton, Slade (army); Griffin, Robert P. (army); Gurney, Edward J. (army); and Hart, Philip (army).

Hart, Thomas C. (navy); Hartke, Rupert Vance (navy/coast guard); Hatfield, Mark (Navy); Heflin, Howell (marines); Helms, Jesse (navy); Hendrickson, Robert C. (army); Hennings, Thomas C. (navy); Hollings, Ernest (army); Huddleston, Walter D. (army); Hughes, Harold (army); Humphrey, Hubert H. (army); Humphreys, Robert (medical corps); Inouye, Daniel (army); Jackson, Henry ''Scoop'' (army); Javits, Jacob (army); Jenner, William E. (army air corps); Johnson, Lyndon B. (navy); Keating, Kenneth (army); Kennedy, John F. (navy); Knowland, William (army); and Kuchel, Thomas H. (navy).

Laird, William R. (navy); Lautenberg, Frank (army); Laxalt, Paul (army); Lodge, Henry Cabot, Jr. (army); Long, Oren E. (Hawaii defense volunteers); Long, Russell (navy); Magnuson, Warren (navy); Martin, Edward; Mathias, Charles M. (navy); Matsunaga, Spark (army); McCarthy, Joseph (marines); McClure, James (navy); McGovern, George (army air corps); Melcher, John (army); Metcalf, Lee (army); Miller, Jack (army air corps); Morton, Thruston (navy); Moss, Frank (army); Moynihan, Daniel P. (navy); and Muskie, Edmund (navy).

Nelson, Gaylord (army); Neuberger, Richard L. (army); Nixon, Richard (navy); Payne, Frederick (army air corps); Pearson, James (navy); Pell, Claiborne (coast guard); Percy, Charles (navy); Potter, Charles E. (army); Proxmire, William (military intelligence); Reynolds, Samuel (army); Roth, William V. Jr. (army); Salinger, Pierre (navy); Saxbe, William (national guard); Schweiker, Richard S. (navy); Scott, Hugh D. Jr. (navy); Smathers, George A. (marines); Smith, Benjamin A. (navy); Spencer, George L. (navy); Stafford, Robert (navy); and Stevens, Ted (army air corps).

Taft, Kingley (army); Taft, Robert Jr. (navy); Tamadge, Herman (navy); Thurmond, Strom (army); Tower, John (navy); Tydings, Joseph D. (army); Warner, John (navy, marines); Welker, Herman (air corps); Wyman, Louis C. (navy); Yarborough, Ralph (army); and Young, Stephen (army).

EXHIBIT 2

CONGRESSIONAL MEDAL OF HONOR RECIPIENTS

There have been only 8 Senators in history who have received the Congressional Medal of Honor.

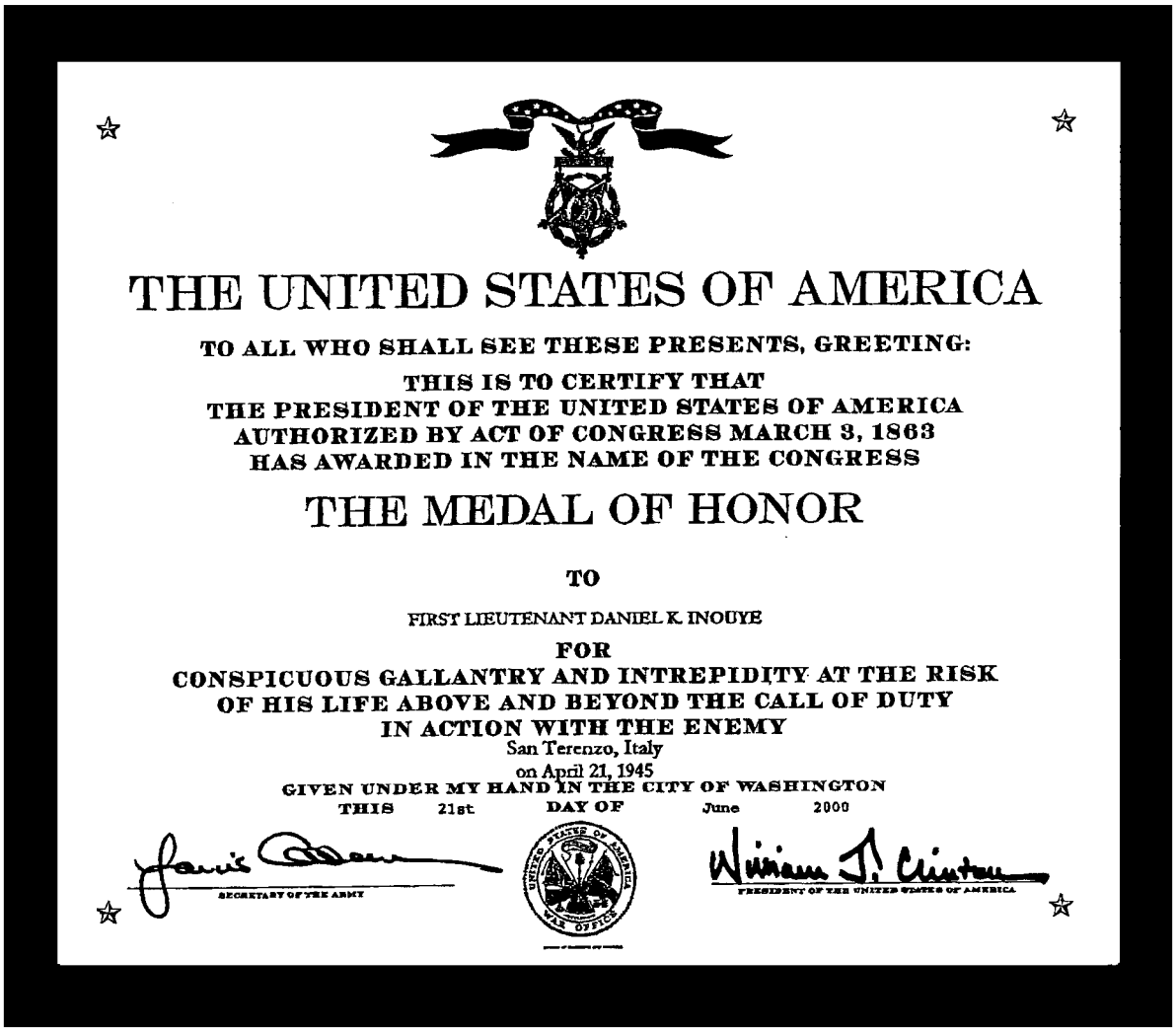
Civil War: Matthew S. Quay awarded July 9, 1888; Francis E. Warren awarded September 30, 1893; Marcus A. Hanna awarded November 2, 1895; William J. Sewell awarded March 25, 1896; Henry A. du Pont awarded April 2, 1898; and Adelbert Ames awarded March 29, 1899.

World War II: Daniel Inouye awarded June 21, 2000.

Vietnam: J. Robert Kerrey awarded May 14, 1970.

EXHIBIT 3

CONGRESSIONAL MEDAL OF HONOR



THE UNITED STATES OF AMERICA

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

THIS IS TO CERTIFY THAT
THE PRESIDENT OF THE UNITED STATES OF AMERICA
AUTHORIZED BY ACT OF CONGRESS MARCH 3, 1863
HAS AWARDED IN THE NAME OF THE CONGRESS

THE MEDAL OF HONOR

TO

FIRST LIEUTENANT DANIEL K. INOUYE

FOR
CONSPICUOUS GALLANTRY AND INTREPIDITY AT THE RISK
OF HIS LIFE ABOVE AND BEYOND THE CALL OF DUTY
IN ACTION WITH THE ENEMY
San Terenzo, Italy
on April 21, 1945

GIVEN UNDER MY HAND IN THE CITY OF WASHINGTON
THIS 21st DAY OF June 2000

SECRETARY OF THE ARMY

PRESIDENT OF THE UNITED STATES OF AMERICA

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we have a number of Senators on both sides of the aisle who desire to speak. I make a recommendation that we rotate back and forth between sides. On this side I ask each Senator to try to speak for less than 5 minutes. I yield to each of them up to 5 minutes.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak following the remarks of Senator MCCONNELL, and following that, Senator DODD be our next speaker in order.

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

The Republican whip.

Mr. MCCONNELL. Mr. President, let me say to our colleagues from the greatest generation, it is very difficult to imagine how one could improve upon the observations already made by the majority leader, the Democratic leader, and the President pro tempore. We all stand in admiration of their remarkable service.

America has sort of rediscovered World War II beginning in 1994 with Steven Ambrose's great book about D-day, followed up by his marvelous book ''Citizen Soldiers,'' which was about the replacements that came after D-day, one of whom was my dad.

I stand here today as a proud son of one of the greatest generation. I was unable to make the World War II Memorial opening the other day, but I did have an opportunity to watch it on television. At the same time, I was going through some old letters from my father to my mother from the theater, the most interesting of which was a letter dated at the top ''VE Day, May 8, 1945, Pizen, Czechoslovakia.'' As one of the foot soldiers in the Second Division, he had fought his way from March, April, and May across Germany and met the Russians in Pizen. Now free to kind of express himself without fear of the mail being censored, he alluded to a pretty tough couple of months of fighting in Germany without any specifics, obviously—the members of the greatest generation never wanted to talk about the specifics—and made, I thought, a rather prophetic observation.

This was a regular foot soldier in Europe on the day the Germans surrendered. He said: I hope we will not draw down the force too much, and I am really worried about the Russians.

He had had a chance to meet the Russians in Pizen when the two forces came together.

So in addition to celebrating the marvelous service of our six colleagues from the greatest generation, I thought I would take the opportunity to allude to my father who was also one of the 16 million Americans who served in uniform during World War II. This generation has made an enormous contribution to our country.

Tom Brokaw argued, and I think he was probably correct, this is certainly the greatest generation probably since the generation of the Founding Fathers. All six Senators have our admiration and respect. We thank them not only for their service overseas but their service in the Senate in the ensuing years. They are, indeed, great Americans.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I was a little boy when the war ended, but where I am from, Searchlight, NV, we look at a person by the name of Bill Nellis as the person we recognize as the epitome of the greatest generation. Here is a man who was not eligible for the draft. He had a family, but he decided to join at age 26 or 27. He went into the Army Air Corps, completed 68 missions, was through with his assigned missions, and on his 69th mission agreed to volunteer for someone who was unable to fly that day, and it was his last mission. He was shot down over Belgium, where Bill Nellis still is buried. Of course, Nellis Air Force base is named after Bill Nellis of Searchlight, NV.

As has been said today, we have six patriots who serve in the Senate who are examples to each one of us. Senator DANNY AKAKA has the unique distinction of having been at Pearl Harbor and saw the smoke, fire, death, and destruction. He was there at the beginning of World War II, but he was also stationed on the Island of Tinian when the *Enola Gay* took off to end the war. DANNY AKAKA watched the *Enola Gay* take off from Tinian, where it really did end the war.

Senator HOLLINGS is a person who was educated to be in the military. He graduated from military school, the Citadel, in his hometown of Charleston. In 1942, he immediately became an officer, spent many years in North Africa, the European campaigns. In fact, he was awarded seven campaign ribbons, meaning that he was involved in seven major battles in World War II.

He came back, of course, and has dedicated his adult life to public service, which all of us are very sorry to see is going to end at the end of this term. What a great Senator he has been and what a great soldier he has been, just like Senator INOUYE, Senator AKAKA, Senator LAUTENBERG, Senator STEVENS, and Senator WARNER.

Senator INOUYE is my friend. He is a friend of everyone who serves in the Senate and thousands of others. His heroism, displayed in the Vosges mountains, in France, is something that is a story to behold. As has been related by Senator STEVENS, he truly was an American hero and is an American hero.

But again for Senator INOUYE, it is not only what he did in battle, courageously, it is what he has done his entire life, courageously, in the Halls of Congress. He is a role model for me as to how a Senator should legislate and act.

Senator LAUTENBERG, son of immigrants, represents so well what the American military should be. After he graduated from high school in New Jersey, he enlisted and served in the Army Signal Corps. He spent most of World War II in Europe. When he returned home he had the GI Bill of Rights—again, something that had never been around before. He took full advantage of that and, after graduating, became one of the finest businesspeople America has ever known. He gave up that business career to serve in the U.S. Senate, and he has done that so well.

I have had the good fortune to travel on a congressional delegation that was led by Senator STEVENS and Senator Glenn. It was a wonderful experience for me as a young Senator, to travel to Europe with these two fine Senators. I learned in our meetings we held with different leaders of nations during that time of their military careers. There is no better example of that than when we were in Czechoslovakia and Senator STEVENS and Senator Glenn saw someone wearing an old World War II flight jacket, the same type of flight jackets they wore in World War II. That evening we spent a lot of time listening to these two American heroes talk about their experiences in World War II. It is something I will never forget. It was a wonderful evening I spent with these two fine gentlemen.

Senator STEVENS was a pilot, as we have learned, in World War II in the China-Burma-India theaters, supporting the Flying Tigers of the 14th Air Force. He received two Distinguished Flying Crosses, two Air Medals, and the Yuan Hai medal, awarded by the Republic of China.

Senator WARNER is someone who has dedicated his life to public service. He started when he was 17 years old. As we have learned, he later got out of the Navy, went into the Marines, and became Secretary of the Navy. He is a person who fulfilled, as have the other five, a rendezvous with destiny. These men kept that rendezvous. When history called, all six answered. Every one of them who is now a United States Senator displayed courage in the war, and, as I have said, they have displayed the same courage in their political careers. Four of these Members are Democrats, members of the party I represent. Two are members of the Republican Party—on the other side of the aisle, as we say. But without any equivocation, each of these men share a deep love of our country, and they have put the good of our great Nation above partisan politics on so many occasions.

I am proud to be a U.S. Senator. One reason for being proud is I am able to serve with six American patriots.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I, too, rise to pay tribute and honor to our World War II colleagues here in the Senate: Senator INOUYE, Senator AKAKA, Senator WARNER, Senator HOLLINGS, Senator LAUTENBERG, and, of course, my friend, Senator STEVENS. I

would like to take a few minutes this afternoon to speak my heartfelt appreciation to my friend, the senior Senator from the State of Alaska, Senator STEVENS.

I know words alone can never accurately reflect the tenacious spirit of our friend and decorated World War II veteran. Like so many veterans of the war, Senator STEVENS downplays his role. He will tell you quite simply he did what was expected. Yet it is something that must be told time and time again to realize how much this one humble servant has done and continues to do, both for the country and for the State of Alaska.

Prior to going into the war, Senator STEVENS made a promise to his aunt with whom he was living at the time. He made a promise that he was not going to enlist until he could do so without her consent. So he stayed in college until he was 19, and then he immediately put the wheels in motion to enlist. But he didn't pass that first flight physical. His eyes apparently were not up to par. I think my colleagues in this Chamber who know Senator STEVENS, especially those of them who might play tennis with him, know that this setback was not something that was going to keep Senator STEVENS down. He was determined to fulfill his commitment. He went out and did eye exercises for a couple of months and passed that next flight physical.

During World War II, Senator STEVENS flew C–46s and C–47s in the China-Burma-India theater, supporting the Flying Tigers of the 14th Air Force. He received two Distinguished Flying Crosses, two Air Medals, and the Yuan Hai medal, awarded by the Republic of China, a truly honorable and amazing tour of duty.

But this was not enough action for Senator STEVENS. It was on his way home from China that he gained an interest, I guess, in politics. During the war, he had done his job. He flew every mission that was requested of him and volunteered for more. He volunteered to drive the Burma Road with a convoy of trucks because they needed officers.

But afterward, the keen interest in politics, in terms of why the United States was involved in the war, kicked in, and Alaska and the Nation have benefited ever since. He finished his undergraduate education at UCLA, earned his juris doctorate from Harvard, and served in a number of Government and elected positions before coming here to the U.S. Senate.

To Senator STEVENS, Senators INOUYE, AKAKA, WARNER, HOLLINGS, and LAUTENBERG, I join with my colleagues in thanking you for your distinguished service to our country and to this legislative body, not only because you helped to protect and defend our freedoms but also because you continue to support those who now serve to protect and defend our beloved America. You are the living history of the greatest generation.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Connecticut.

Mr. DODD. Madam President, I commend our two distinguished leaders—majority leader Senator FRIST and Democratic leader Senator DASCHLE—for their very eloquent remarks which I think capture the spirit of all of us as we gather today.

I want to take a few moments to recognize six of our colleagues for their wonderful contribution who were part of this remarkable generation which we have talked about so frequently over the last number of days, and to thank them immensely for their contribution not only during that great conflict but also for their continuing service to this country.

I think all of us witnessed one way or another this past weekend the remarkable gathering on the great Mall of our capital city for the inauguration and dedication of the national World War II Memorial.

We are recognizing six of our colleagues today, but having watched that event, two individuals I must say I couldn't take my eyes off. One was our former majority leader Bob Dole. Without his leadership, the new memorial would not have been constructed. He is not with us any longer as a part of this body but was for some years and played such an important role in seeing to it that this memorial would be built in a timely fashion.

I am stunned to know that about 1,000 of our 6 colleagues' fellow veterans who served in World War II are lost every single day. So this monument could not be built soon enough.

The other one I was watching was former President George Bush, a remarkable hero of that great conflict in his own right. He has a wonderful sense of humility, and rarely discusses his tremendous service as a combat pilot. In fact, I find one thing common about these 6 colleagues of ours, Democrats and Republicans alike. They have a wonderful sense of humility. Every time this subject matter comes up, all of them show a reluctance to talk about their own individual contributions. I admire them for that.

As for my other heroes, I don't want to make all of them feel very old. But my good friend from Hawaii, DAN INOUYE, just said ''Happy birthday'' to me the other day. He asked, How old are you? I hesitate to tell you that I was 6 years old when D-Day occurred. I turned 60 the other day. That makes me feel old. But it must make those who were part of that great conflict a bit older as we gather here today.

But it is not an exaggeration to say we would not, in my view, be enjoying the freedoms which we do as Americans and as so many other people do—all over the world—today if it had not been for the remarkable contribution of those who gave so much, particularly the 400,000 who never came home. Of the 16 million who served, 400,000 gave their lives on the battlefields of Europe, Africa and the Pacific islands.

We can never find the adequate words to express our gratitude to them and to their families—the wonderful people who made a contribution obviously on the home front as well producing the materials necessary to successfully prosecute the war.

In recent times, we have had a number of debates over what constitutes a ''just war.'' There is no such debate about World War II. World War II was truly a defining moment—not only for our Nation, but for the entire world. It was not merely a clash of armies. It was one of values. It was a time when those nations of the world that stood for freedom, tolerance, equality and opportunity took on, and defeated, the forces of tyranny, oppression and genocide. World War II was literally a fight for the future of humanity. It is no exaggeration to say that had the outcome of World War II been different, the institution in which we serve might very well not be in existence today.

Each and every one of us today owes his or her freedom, in a very real way, to the men and women who gave of themselves during the war—those who served overseas, as well as those who contributed on the homefront. I would like to especially recognize the tremendous contributions of those from my own State of Connecticut. About 210,000 men and women from Connecticut served in the Second World War. Connecticut's civilians also played an enormous part in the war effort by helping supply our troops with planes, firearms, and other weapons and technologies that were so vital to our victory.

I want to be an additional voice here today to say, Thank you. It is rather remarkable that in a body of 100 people we have 6 veterans of World War II among us. We are very grateful to all of you for your wonderful contribution and to have you as wonderful friends—FRANK LAUTENBERG, DANIEL AKAKA, DANIEL INOUYE, two Senators from the same State, a rather remarkable distinction. I think it is special to have 2 Senators from the same State who are veterans. FRITZ HOLLINGS—I know I am in violation of Senate rules a bit. But I noticed someone in the gallery and wanted to pay tribute to Peatsy Hollings. I know there are a lot of spouses and others who went through a lot as well.

In addition to my great friend from South Carolina and his lovely wife, TED STEVENS, who I care so much about and admire immensely; JOHN WARNER, one of my dearest friends in the world. I thank all of you for your wonderful contributions.

I am very proud to serve with you, and I thank you.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I feel truly honored to be able to join with my colleagues in recognizing today six of our own who are part of the ''greatest generation'' and who made a tremendous contribution to the freedom—

not just of our country but to the world.

A lot has been said about Senators INOUYE, AKAKA, HOLLINGS, LAUTENBERG, STEVENS, and WARNER. I endorse almost everything said about all of them. I consider all of them good friends. I have stories on a few of them, but I will not tell the stories if they will not reciprocate and tell stories on me.

But these are, as has just been said, very humble men who did absolutely amazing things, who made tremendous contributions, and yet they walk among us today with one foot in front of the other. You don't know it when you deal with them.

I have had the privilege in recent times visiting some of the battlefields in Europe—the battlefield of Bastogne with Senator HOLLINGS. My wife and I have been to Normandy beaches—Utah Beach, Omaha Beach, Sainte Mere Eglise—places where absolutely remarkable things were done.

These are tremendous monuments. Unfortunately, I am not going to be able to go to D–Day. But I urge my colleagues to visit these locations when you have an opportunity and see the living memorials which are set up there and the movies that were taken of the events. When you see the conflicts they faced and the bravery, you think: Why on Earth would somebody ever try to do that? There were literally hundreds—and probably thousands—of undertakings that were seemingly impossible which the brave soldiers of the U.S. forces undertook on D–Day.

I join with my colleague from Connecticut, who mentioned two other great heroes, the former leader of this body, Bob Dole, and former President George Bush, who made tremendous contributions. These people deserve our greatest admiration and our thanks, along with all of the other veterans, and the families of all of these men deserve special thanks.

I note that I think one Beth Stevens is watching close by, daughter of this good Senator from Alaska. I know how proud these young people are of their parents.

I do not know how many of you saw the movie, ''Ike: Countdown to D–Day.'' It was a fabulous movie, telling about all of the problems and the hassles that went into the planning of D–Day. Getting ready to lead an invasion of 130,000 troops, 5,000 ships, 11,000 aircraft, you see how many things could go wrong, not the least of which was when Eisenhower told his Chief of Staff, General Beetle Smith, We are surrounded by some of the biggest swelled heads in history, and my job is to keep them pulling together.

We had uncommon leadership from people who were ordinary human beings, but we had uncommon valor from so many of the 16 million people who served there. We say to all, Our sincerest thanks, our deepest respect. We congratulate and thank them. Having watched that D–Day movie, I can only say how lucky General Eisenhower was when there was not 24-hour television coverage. If you were watching every day the kinds of problems and the hassles that General Eisenhower had to endure, with the media we now have they would probably call for the firing of General Eisenhower and the impeachment of the President because lots of things went wrong. But these brave people, these brave men persevered, and we owe them our heartfelt thanks.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I thank you.

AKAKA, HOLLINGS, INOUYE, LAUTENBERG—veterans of World War II. STEVENS, U.S. Army Air Corps, a veteran of World War II; WARNER, Navy veteran of World War II. All unique men, men of decency, men of character, plainspoken, humble and generous in spirit, noble in purpose.

Their lives have been about hope. They transformed a world and framed the future. This institution and the world have been touched by each one. We in the Senate watch them. We key off of them. We have learned much from these six distinguished Americans.

These men are not angels. We are not here to canonize them, but we are here to recognize one of the most unique times in the history of man. That time was not squandered by unique individuals who understood the great purpose and challenge of their time.

I am connected to this generation, as millions of Americans, not just because I had the privilege of serving with them in the Senate, my father was a veteran of World War II with the Army Air Corps in the South Pacific, the 13th Army Air Corps. He was a radio operator tailgunner on a B–25. He spent almost 3 years overseas.

If he were alive today, I don't know if he would have found a prouder moment than what happened in Washington last weekend and what is happening in the Senate today as we honor these unique Americans.

They lifted us up. They continue to lift us up. Yet they never asked for anything in return for their service. I congratulate and thank our distinguished colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, if I may take just a few minutes to respond to the comments of our colleagues, to our majority leader, Senator FRIST, and TOM DASCHLE, our Democratic leader, and other colleagues, including Senator REID, Senator BOND, and Senator WARNER, who is kind of a member of this clan of ours—to be with colleagues like Senator STEVENS, Senator INOUYE, Senator HOLLINGS, and Senator AKAKA, all serving together at the same time, it is hard to believe it was as many years ago as it was.

Senator HAGEL, I thank him for his comments, as well, and Senator DODD.

But it was a long time ago, and those who now are approaching 50 years of age remember serving when we were just kids. I enlisted in 1942 when my father was on his death bed with cancer. He was 42 in the year 1942. It was a duty that I felt keenly and I enlisted, even as my father was on his death bed. My mother was 36 years old.

I cannot remember any of my contemporaries who did not serve or who were not going to serve. There were 16 million in uniform. It was quite an assembly of Americans of all cultures and religions. We had one mission and that was to protect this world of ours from becoming a product of fascism.

While it was so many years ago, it is wonderful to be able to recall we were there. When I look at the actions of DANNY INOUYE, who among us is at the top, given the Congressional Medal of Honor, that is a distinction that is given to so few people. As I recall my many discussions with Senator INOUYE—I hope my memory is accurate—he had been hit by fire, even as he got up to lead his platoon further on. That is bravery as few have it. He knew his duties had to continue because he had the responsibility of others he was in charge of.

DANNY INOUYE, as we all know, is modest to the core. He never brags, would never talk about his performance. DANNY will always stand for what is right, but he never is in a position where he brags about his incredible service.

FRITZ HOLLINGS, similarly, got his stars, his clusters for his duty in so many different combat areas.

Mine was different. I was not in a combat unit. I, like so many others, performed my duties in a different place. Most of what I saw of World War II was from the top of a telephone pole. I was a pole lineman. My mission was to make sure the connections between those who were serving at the front and those who were issuing the orders from way back at command headquarters were clearly transmitted. I took my responsibilities seriously. Even as we were being bombed by B–1's and B–2's—for those who are not old enough to remember, one was a jet bomb and another was a rocket bomb. That was like a time bomb because you never saw it coming. It went off and did whatever damage it did.

The first jet airplane I ever saw in the sky was German. They were outdistancing our fighter pilots in minutes. They would just pull away. They would drop bombs wherever they could. This was my service primarily in Belgium.

When I visited the World War II Memorial—and, unfortunately, I was not there at the ceremony; I could not be, as I had longstanding plans, and I had to maintain those appointments—I visited with Senator DOLE and Senator INOUYE, Senator HOLLINGS and Senator WARNER, and Senator AKAKA was there,

as well. Not to be critical, but I did not see anything that indicated how many died in different places, what were the regiments that fought these battles, what were the divisions, what were those who served on the seas doing at the time when the bombs were falling or the torpedoes were being sent.

It took my unit 3 days to cross the channel from England to France because they could not get the convoy stabilized enough to carry on.

I hope they will make some adjustments at the memorial to reflect the sacrifices that were made, other than in artistic terms. There is a wall of gold stars, each representing 100 deaths. Using quick multiplication, you could figure out 400,000 people died in combat or combat-related activities. We see New Jersey, we see New York, we see Virginia, and the other States; columns of granite, but not one indication of how many people came from the then-48 States and 6 territories. Did 10,000 die from the State of New Jersey? It is just a guess.

It would be important if we knew what happened. The memorial has a certain beauty. It is a tranquil beauty, however, and it does not talk to the smashing victories we had on D–Day or in the Belgium Bulge.

I was in Belgium at the time. I was not at the front line. The weather was abominable. It was gray and snowy and our troops were getting licked badly and we were moving back.

I was taken down to the railroad station, given ammunition, and they said: OK, LAUTENBERG, you and your unit have to go up there. Fortunately, with prayers supporting it, the sun came out and the Air Force got up into the sky, and they smashed the German line and moved it all back. It was the turning point in that stage of the war, December 1944.

We are all grateful to have survived, to be here, to be able to serve, to continue our service in this great body. I say to my colleagues, I am grateful to each one of you—each one of you who served, each one of you who made a difference in how this world of ours turned out, and each one of you who continues to serve. Even though we might have different opinions about quite how we do it, the fact is, we are here because we want to continue to serve our country. We are lucky to be in America.

I thank all of you, my colleagues, for the work you do.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, last weekend thousands of Americans flocked to our National Mall to pay tribute to the ''greatest generation.'' It was the dedication, as we all know, of the World War II Memorial.

It has now been 59 years since the end of the Second World War, and at long last our Nation has a place that honors the 16 million who served in our Armed Forces, the more than 400,000 who died, and the millions who supported the war effort here at home.

I was touched that those who served at home also were honored because that war brought our Nation together as we had never seen before, and perhaps since.

I can think of no more appropriate honor than to recognize their commitment, dedication, and sacrifice with a permanent memorial to the men and women who fought to secure our freedom and stamp out Nazi tyranny.

Today we are honoring those Members of this esteemed body who fought for our freedoms in World War II. Of the 114 Senators who have served in the war, I have been privileged to serve with 15 of them. Six are here with me today.

DANNY AKAKA served in World War II with the U.S. Army Corps of Engineers as a welder-mechanic.

ERNEST HOLLINGS graduated from The Citadel in 1942 and received a commission from the U.S. Army. He served as an officer in the North African and European campaigns in World War II, receiving the Bronze Star and seven campaign ribbons.

FRANK LAUTENBERG enlisted in the Army straight out of high school and served in the Army Signal Corps in Europe during World War II.

TED STEVENS, during World War II, was a pilot in the China-Burma-India theater, supporting the Flying Tigers of the 14th Air Force. He received two Distinguished Flying Crosses, two Air Medals, and a medal awarded from the Republic of China. Today he is chairman of the Appropriations Committee and the Defense Appropriations Committee.

JOHN WARNER entered the Navy at age 17, and served on active duty in World War II. He went on to serve as a marine in the Korean War, and served in the Department of Defense for 5 years during the Vietnam war. Later, he served our country as Secretary of the Navy, and now serves as the distinguished chairman of the Armed Services Committee of the Senate.

DANNY INOUYE served in combat with the legendary ''Go for Broke'' unit in World War II, achieving the rank of captain and earning the Nation's very highest award for military service, the Congressional Medal of Honor. He also earned a Bronze Star and a Purple Heart with cluster. He is the ranking member on the Defense Appropriations Committee.

Two of Texas' recent Senators, Lloyd Bentsen and John Tower, were both proud Texans and veterans of World War II.

Three of our Nation's Commanders in Chief, who served in the Senate—Presidents Kennedy, Johnson, and Nixon—also fought as part of the ''greatest generation.''

For anyone who has read Tom Brokaw's book ''The Greatest Generation,'' the stories of those who fought the bitter and brutal fight and then returned home to their families and went about their lives as if it were no big deal are today still sources of great inspiration to all of us because they had the commitment to do what was right, to answer the call to duty, to return without a complaint, with no second guessing, no protests. That was the mark of the ''greatest generation.''

Some of them went back to the factories and the fields, and back to their desks, and they did not even expect praise or admiration. Some went into public service. Those we have mentioned today did and are doing a wonderful job carrying the mantle of public service. They brought with them the scars of war, and they carry the mantle of freedom.

Bob Dole, with whom all of us served as well, what a great leader and what a great hero of World War II.

Strom Thurmond, once chairman of the Armed Services Committee, served, at the age of 40, in World War II and had to miss the 50th anniversary of D-day because his son was graduating from high school. What a legend.

I am honored to stand here and look around this fabulous room, these hallowed halls, and pay tribute to every one of you who gave me the right to stand here, and who will be forever in my heart because you are continuing to do so much for our country. I want you to know I believe without the great leadership you provided, neither my children nor I would know the freedom we know today. We do stand on the shoulders of giants, and we salute you.

Madam President, my distinguished colleague, the Senator who is the chairman of the Armed Services Committee, said I forgot President George Bush, who also was a hero in World War II. That is certainly a huge omission, and I apologize, and thank you, I say to the Senator, for letting me set the record straight.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, this past week has been a very memorable and inspirational and overdue time for all of us to come together as a nation and dedicate the World War II Memorial and recognize the efforts of our Nation's veterans in one of the fiercest wars in our Nation's history.

As we did, many of us took a moment to remember the events of those days and how they affected us and, more importantly, how they affected the people in our lives who played an important part in that war effort.

I had a special opportunity to remember my dad, Elmer Enzi, who served in the war, and my uncle Edward Curtis and my uncle Edmund Wally Enzi who played a part in that war.

For many of us, those days are forever etched in our minds because they had an impact on us and our families and friends that will never be erased or forgotten. But it is nothing like the memory of those who actually participated.

We have the opportunity to honor the Senators who are with us today in this great body who played a part in that war. We have mentioned them, their achievements.

I want to refer to a piece that was on Channel 1, which is an educational channel that goes to the schools every morning. They have seen these World War II events being dedicated and the people who came to those events. Each time there is one of those events, the people who come are a little bit older. They found out the kids of this country were getting kind of a false impression of who fought the war, so they put out a special piece that would be dedicated to these great men who serve in our Chamber. The title of it was: ''The Kids Who Saved the World.'' They showed the people coming to the reunions, but then they shifted back to the pictures of these people as they served. It made a much greater identification for the kids across this country that the patriots, the ones who put their lives on the line, were not much older than the kids in school watching this Channel 1.

I thank Senator DANIEL AKAKA, SENATOR FRITZ HOLLINGS, SENATOR DANIEL INOUYE, SENATOR FRANK LAUTENBERG, SENATOR TED STEVENS, and Senator JOHN WARNER for being those ''kids who saved the world'' and allowing us to be here in this forum today.

For us, as Americans, our World War II story begins on December 7, 1941, a date President Franklin D. Roosevelt told us would live in infamy, as Japan suddenly and deliberately attacked the United States of America.

The next day, the President reassured a fearful nation that the attack on Pearl Harbor would not stand and that all our resources would be brought to bear on ridding the world of the terrible menace that was threatening the future peace and security of the United States and Europe.

In the years that followed, the United States put forth an effort to combat evil that had never been seen before. Sixteen million served in our Armed Forces and a united America gladly did everything that could possibly be done to support the war effort back home. The United States was fully committed to the cause at hand and no price was too great, no sacrifice too burdensome, and no hardship too severe, if it meant victory overseas.

The World War II Memorial on the Mall commemorates the sacrifices of those 16 million veterans who served with pride and patriotism during World War II. It also honors and recognizes the millions more who supported the war cause back home. For without the efforts of our troops on the front lines, and the support and encouragement of family and friends back home, we would have never been successful. Thanks to all of them, we succeeded beyond our greatest expectations. This was truly a time when we knew there was no option but complete and total victory and we refused to consider any other option—regardless of the cost.

When President Roosevelt made the call for recruits it was answered in unprecedented fashion. The 16 million Americans who reported for duty made it clear that they would pay any price to defend the freedoms and liberties of our own Nation. They also committed themselves to the liberation of Europe and the preservation of liberty there and in many other parts of the world.

They were just average Americans from small towns and large, from small States and large, who were caught up in a cause greater than themselves. They soon showed themselves to be the greatest weapon ever known in the history of warfare—the American Armed Forces. They were sent to far away places with strange sounding names, as the song goes, and they probably never imagined there was anything special about them. Heroes? They probably never thought of themselves that way, but for those who read about their exploits, and for those of us who now live with the freedom that their blood, sweat and tears provided, we cannot think of them any other way.

They were young men and women, called to attempt the impossible, knowing the odds were against them, and still they tried, because they believed in our country and the principles we hold dear as a nation.

We have several World War II veterans serving with us here in the Senate, with several more serving in the House. Their commitment to country and duty which began so many years ago continues today in the Congress.

Senator DANIEL AKAKA, Senator FRITZ HOLLINGS, Senator DANIEL INOUYE, Senator FRANK LAUTENBERG, Senator TED STEVENS, and Senator JOHN WARNER represent in a special way all of those who served with distinction and honor during those days. They are our link with the past, a past that has made our present possible.

What they achieved, along with all those who served with them, is best seen in the words that have been posted on several Internet sites, attributed by some to Father Denis Edward O'Brien, USMC:

It is the soldier, not the reporter Who has given us freedom of the press.

It is the soldier, not the poet, Who has given us freedom of speech.

It is the soldier, not the campus organizer, Who has given us freedom to demonstrate.

It is the soldier, not the lawyer, Who has given us freedom of the right to a fair trial.

It is the soldier who salutes the flag, Who serves under the flag and

Whose coffin is draped by the flag,

Who allows the protester to burn the flag.

This is the legacy our veterans have left us and it reflects the debt we owe them all. They are—and they always have been—the force that guarantees our Bill of Rights. They are—and have been—the force that stands guard around the world, vigilant and watchful, while we sleep. They are the ones for whom love of country are not just words, they are a way of life.

In the years to come, the Memorial on the Mall will serve as a constant reminder that freedom isn't free and that it comes at a great price. More than 400,000 American lives were lost in World War II and many more were wounded in battles all over the world. They will be remembered there. The memorial will also serve as a symbol of the heartfelt dedication and total commitment that was needed to put an end to the tyranny that threatened to ensnare the world around us. It was an effort that we pray will never have to be duplicated.

We take great pride in our Nation's veterans because they are our greatest American heroes. They were as one, willing to sacrifice all their tomorrows to ensure we would live in freedom today. Our way of life is their legacy, their gift to us all. God bless them all, our Nation's heroes, our Nation's veterans.

Madam President, I yield the floor.

Mr. ENSIGN. Mr. President, this past weekend President Bush dedicated the World War II Memorial before an audience of several hundred thousand attendees and a national television audience of millions.

The memorial honors the 16 million who served in our Armed Forces during World War II, the more than 400,000 who died, and the millions who supported the war effort from home.

Symbolic of the defining event of the 20th Century, the memorial is a monument to the spirit, sacrifice, and commitment of the American people to the common defense of the Nation and to the broader causes of peace and freedom from tyranny throughout the world.

It is my belief that it will inspire future generations of Americans, deepening their appreciation of what the World War II generation accomplished in securing freedom and democracy.

Above all, the memorial stands as an important symbol of American national unity, a timeless reminder of the moral strength and awesome power that can flow when a free people are at once united and bonded together in a common and just cause.

The dedication of the World War II monument reminded me of a story that not many are familiar with. This story is about a young man whose experiences throughout the Pacific during World War II helped mold him into the compassionate, reasoned, and fiercely patriotic gentleman he is today.

In December of 1941, that young man was a high school student in Hawaii. And on the morning of December 7th, he and his schoolmates watched from the hillside in horror as the Japanese planes carried out their surprise attack on the Naval fleet in Pearl Harbor.

After finishing high school, this young patriot joined the United States Army and was assigned to the Corps of Engineers. He sailed throughout the Pacific, and participated in the invasions of the Japanese-held islands of Saipan and Tinian. In fact, when he

was on Tinian he watched the *Enola Gay* lift off on her historic mission to the Japanese mainland.

Young DANIEL K. AKAKA had witnessed the beginning of World War II, and was fortunate enough to witness its conclusion.

Many years have passed since then. Now, Senator AKAKA can look back on a remarkable life. In addition to his Army exploits, he was a welder, a school teacher and principal, Congressman and is currently a U.S. Senator representing the good people of Hawaii.

It is in his current capacity that I know him best. As a member of the Senate Armed Services Committee and ranking member on the Readiness and Management Support Subcommittee, we have worked together overseeing military readiness issues including training and exercises, logistics, and industrial operations, depots and shipyards, military construction, environmental programs, as well as policies and procedures related to reform of management practices at the Department of Defense.

I have the utmost respect and admiration for my colleague. Today I want to say thank you to my friend, DANIEL AKAKA.

The United States of America is the leader of the free world and the greatest Nation in history because you and your comrades, the greatest generation, served and sacrificed.

We have not forgotten how you helped save the world from tyranny, nor do we take for granted the price you paid for the freedom we cherish today.

You served our country with honor and commitment during one of the darkest times in modern history.

This Nation is as grateful, if not more, for you today, than we were in the days following your liberation of the world.

History has taught us how heroic and courageous you truly were. So it is only fitting that on this day, at this time, on behalf of a grateful nation I say, thank you. God bless you, DANIEL.

Mr. CORZINE. Mr. President, I rise this week to commemorate the 60th anniversary of the World War II Allied invasion of Normandy and to honor the courageous members of our Armed Forces, especially those from New Jersey, who participated in that decisive battle.

In the waning days of 1943, the Allied Command, led by General Dwight David Eisenhower, developed a plan to cross the English Channel and gain a foothold on France's Normandy coast. This bold strategy breached Hitler's western defenses and began the liberation of France and the rest of Nazi-occupied Europe.

The invasion known as Operation Overlord was to become the largest air, land and sea operation any military force had ever undertaken. After months of planning, training and preparation by the Allies, June 6, 1944 was selected as the invasion date, or D–Day.

Moving and fighting under stormy skies, the invasion force, led by the United States, Great Britain and Canada, and including Free French and Free Polish units, consisted of over 1 million service personnel. The American contingent included tens of thousands of ground combat troops who assaulted over Omaha and Utah beaches, airborne units which landed behind enemy lines, U.S. Navy sailors, Army logisticians and other specialists, and Army Air Corps aviators and ground crews who supported the landings.

The dangers were grave, and the stakes almost incalculable. Our troops' skill and determination won our Nation a world-changing success, a military victory which today remains a keystone of the liberties and security Americans and their partners still enjoy. The soldiers who fought their way ashore in Normandy and who there dropped into battle under heavy fire demonstrated unsurpassed tenacity and valor. Their superb performance and their sacrifices in the cause of freedom and democracy will always be remembered and appreciated by a grateful nation. May our D–Day veterans' memory and deeds be a constant reminder of Americans' courage, resolve and devotion to duty in World War II.

Mr. JOHNSON. Mr. President, I rise today to honor America's veterans of World War II.

I am pleased to have this opportunity to thank the millions of Americans who served our Nation during the Second World War. World War II marks the greatest triumph of the United States in the 20th Century. The war has become a symbol of the power of a nation united and a turning point in the history of the world.

It is important to note that the service of men and women of the World War II generation went far beyond their sacrifices on the battlefields of Africa, Europe, and the Pacific. After winning the war, they returned home to create a strong, prosperous nation and helped shape America into the beacon of liberty that it is today.

I am honored to work along side six World War II veterans here in the Senate. Our colleagues Senators INOUYE, STEVENS, WARNER, HOLLINGS, LAUTENBERG, and AKAKA each answered their Nation's call to duty. I thank them for their service in the military during World War II and for their continued service and leadership in the Senate.

I was extremely touched by this past weekend's emotional dedication ceremony of the National World War II Memorial and the opportunity it provided for our nation to honor our World War II veterans. While belated, this memorial provides all Americans with a place to express their appreciation for the men and women who fought in the war and to reflect on the sacrifices of those who died to defeat the evils of tyranny and oppression. Though it is the newest of our war memorials, I believe it has already become a national treasure.

I also want to take this opportunity to pay a special tribute to the veterans of D–Day. Next week marks the 60th anniversary of the allied landing at Normandy, France. On June 6, 1941, the largest fleet of ships in the history of the world left ports in Great Britain for the coast of France. Aboard these ships were thousands of young Americans who fought and died to gain a foothold on Europe and to help free those who had fallen under the dark shadow of Hitler's forces. These young men were the spearhead of one of the greatest military forces ever assembled and deserve special recognition for their sacrifices.

Like so many Americans, members of my own family proudly served in World War II. Both my father and father-in-law served in the military during World War II. I want to thank them and to join with my Senate colleagues in expressing my gratitude to all the veterans of World War II. We are proud and thankful for all that they have done and continue to do in service to the United States of America.

Ms. SNOWE. Mr. President, I rise today to pay tribute to the United States Senate's World War II veterans—soldiers then, statesmen now. They each have unique personal histories and paths from wearing the uniform to serving in this body, yet they share that common badge of honor. They took up arms in a war for the life of all free nations, and for the survival of deliberative democracy embodied by the Chamber in which they serve today.

The dedication of the World War II Memorial this past weekend freshly reminded all of us that individuals like Senators WARNER, STEVENS, AKAKA, HOLLINGS and INOUYE devoted their youth to the greatest cause our Nation has ever undertaken. During that ceremony on Sunday, the sea of former soldiers, and sailors and airmen on the National Mall was a moving testament to the unique, lasting place all veterans have in their hearts for fallen comrades. Years have not diminished the meaning of sacrifice that they know best.

Where often our prayers and thoughts focus on the blessings of liberty, we were also recently reminded by Memorial Day of the costs of the liberty—the loss of those who in Lincoln's words gave the ''last, full measure of devotion.'' It is only fitting that, on the heels of Memorial Day and the dedication of the World War II Memorial, we take a moment to recognize our friends and colleagues who served in the Armed Forces during the Second World War.

In the Senate, we are all privileged to serve with five colleagues who wore the uniform during a time freedom and civilization itself depend upon young soldiers like them.

Senator JOHN WARNER, now at the helm of the Armed Services Committee, volunteered for the U.S. Navy at the young age of 17, and later would

enlist in the U.S. Marine Corps in Korea.

Senator TED STEVENS carved out a decorated war record as a pilot in the China-Burma-India theater, supporting the Flying Tigers of the 14th Air Force. His bravery earned him two Distinguished Flying Crosses, two Air Medals, and the Yuan Hai medal award by the Republic of China.

Senator DANIEL AKAKA, now a leader on the Armed Services Committee, was once a young Hawaii welder and mechanic serving with the Army Corps of Engineers in the Marianas, from 1945 to 1947.

Senator FRITZ HOLLINGS, schooled at the Citadel, began his service in 1942 as a commissioned officer in the North African and European fronts, where he would receive the Bronze Star and seven campaign ribbons.

Senator DANIEL INOUYE had known the horror of Pearl Harbor, where he volunteered as head of a first-aid team, and in 1943, he enlisted in the U.S. Army's 442nd Regimental combat Team. Senator INOUYE has chronicled his World War II experiences in ''Go for Broke,'' the story of his famed group of Japanese-American soldiers.

Senator FRANK LAUTENBERG joined the U.S. Army Signal Corps fresh from high school. He served until 1946 in Signal Corps Battalion 3185 and as a communications specialist attached to British 21st Army Group.

These five colleagues remind us of the high calling to which the Greatest Generation responded—prepared to give all, to protect all. They served beside 400,000 American comrades who would never leave the shores and soil of Europe, the islands of the Pacific and the desert of North Africa.

On the ''Freedom Wall'' of the new World War II Memorial shine 4,000 gold stars—with each star representing 100 lives lost. Just as that human toll approaches the unfathomable, so too do we struggle to truly comprehend the extent to which the heroes of World War II—all with their own unique lives and stories and dreams that would never be fulfilled—collectively turned the course of history away from darkness and toward liberty and light. As their loss to their family and country was permanent, let us also never forget that what they achieved for humankind will stand for all nations, for all time.

Mr. CHAFEE. Mr. President, on May 29, 2004 the National World War II Memorial was formally dedicated on the National Mall.

A number of Rhode Islanders of whom our State is particularly proud played important roles in the design and construction of this strikingly beautiful monument.

Credit for the overall vision of the monument is owed to Providence's Friedrich St. Florian, whose architectural design was chosen from over 400 competing entries.

As to the great results of the construction, I am proud to mention North Kingstown's Anthony Ramos, the founder and president of New England Stone, whose company was responsible for quarrying and fabricating all granite use in the memorial. Nick and John Benson of the John Stephens Shop in Newport were the principal stone carvers of the project; through their work they turned hulks of granite into works of art. Finally, I am pleased to honor Lawrence Rebel and all members of the Gilbane Building Company of Providence for their contributions as construction managers, selected by the General Services Administration's public buildings division.

This memorial is a deserving tribute to the sacrifices made by the men and women of the United States during the Second World War, and I am proud of Rhode Island's contributions to the effort.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I rise with deep humility and honor. The words of my colleagues and friends have touched me greatly. I am most grateful. But in listening to their words, I must suggest that wars are not won by soldiers alone. It takes a united nation to do that.

The war that we were privileged and honored to serve in was a war that a united America carried out. Husbands went to war, but their wives stayed home and worked in the factories. Some worked in the fields. There were mothers who were in anguish every day while their sons were away, but they gave us hope. They gave us courage. Little kids went around collecting pennies to buy bonds.

Yes, it took a nation to win this war. The memorial testifies to that. It does not just honor those who served in battle, but it honors those wives and sweethearts who worked in the factories, the little students who collected scrap metal and pennies.

Yes, we were young. But we knew what was going on. I have been asked many times: If given the chance, would I do it again? I think I speak for all of my colleagues: Certainly, because it was the right thing to do. It was the American thing to do. And what we did I am certain all other Americans would have done.

We all received medals. It is unfortunate that all Americans could not receive those medals. Well, I can tell you that my mother deserved a medal. She had to look at the little flag that flew over her window. There were three stars on it. My two brothers served in the Korean war. It must have been a difficult time for her. I am certain that all mothers have gone through this.

So I thank all of my colleagues.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, let me also acknowledge the fact that my mother, too, had three stars in the window. I had one brother in the Pacific, one in the Mideast, and myself in Africa and Europe.

Senator STEVENS, Senator WARNER, and a bunch of us went down to the World War II Memorial with our friend Senator Dole who chaired that particular memorial. It was a rather blowy day, and all that wind was blowing those fountains all over us. We veterans, in visiting with our good friend Bob Dole, renamed the memorial Viagra Falls after Bob Dole.

But the truth of the matter is, if you go down on the right-hand side, there is a saying by Roosevelt in 1942 dedicating a good part of that memorial and the thought of that memorial to Rosie the Riveter.

That brings to mind the fact that we all had an easy time. We are lucky to be here, as we know. We had an easy time when we came back. It makes me think of the distinguished Senator from Nebraska, CHUCK HAGEL. He fought in the war in Vietnam, where the soldiers came back facing hardships. And that is the big difference.

We really honor our friend DANIEL INOUYE, because he had to fight his country in order to fight his country's enemy. He struggled for a year and a half. He was in the military at the time of Pearl Harbor, but being a nisei of Japanese descent, it wasn't until we were very short of troops in Italy, that we first committed the full 442nd combat team into the lost battalion, into the Rhone Valley and then into Italy. And God bless him, he deserves a Medal of Honor, not only for the courage in battle but the determination against an ungrateful nation that would not even allow him to fight.

Now, what is the point? The point is that we know how to fight a war, but we don't know when to start one. That is why I particularly wanted to thank the majority and minority leaders, in addition to all the Senators, too, who have had these laudatory remarks. We are all very grateful. And we welcome, incidentally, our distinguished former colleague, the Senator from Maryland, Joseph D. Tydings. He is still ready to fight. This is the first time he has been on the floor of the Senate in 30 years. But I had the pleasure and distinction of serving with him as a junior Senator. And then, of course, our colleague from Arkansas, Dale Bumpers, went to fight that war.

We had, as Senator Tydings and I just remembered, that Gulf of Tonkin. I had to sit in the chair. I got two Golden Gavel Awards; 200 hours listening to Wayne Morse, whom I thought was a little looney at the time because I was from South Carolina. We were committed in Vietnam. I found out later that I was the one who was looney, and Wayne Morse was right. He was debating Bill Fulbright on the Gulf of Tonkin.

This is not political. We know now why we are not into Iraq. We know specifically that there wasn't any al-Qaida. The Department of State put out a listing of 45 countries that had al-Qaida ties on 9/11, and it did not have Iraq listed. We know it wasn't the

matter of Saddam being any threat. Retired General Zinni said the other day that his army was a decaying force. He used that word. If you read Dick Clarke's book ''Against All Enemies,'' you will find Paul Wolfowitz, and Clarke and none other than John McLaughlin, of the CIA are talking about going into Iraq. Wolfowitz, who is a friend of mine, says, what about Iraq? He says, there is no evidence, no intelligence whatever of any terrorism against the United States in the last 10 years. Isn't that right, John? And John confirms that.

Let me make a sort of harsh comment, but take it advisedly because we were just talking earlier today with respect to the McCarthy days. I want to talk about intelligence. I served in the McCarthy days 50 years ago. Doolittle had made a study that was a whitewash. So they came back and the Congress said: Let's give President Herbert Hoover, the commission on the reorganization of the executive branch. I was one of the six members on the Hoover commission task force investigating the intelligence activities. In the Senate, I served 8 years on the Senate Intelligence Committee. So I speak with some experience when I say right now our intelligence is one grand charade.

I say it with all due respect. You cannot find any finer people than those on the 911 Commission—Governor Kean, Lee Hamilton, John Lehman, who is a good friend. There is nobody I respect more. The individuals are doing the job. But the idea that we somehow lacked intelligence is out of the whole cloth. Why? Because our best friend in the Mideast, Israel, has the best of the best of intelligence. Their survival depends on their intelligence. Senator INOUYE, Senator AKAKA, Senator STEVENS, Senator WARNER, and Senator LAUTENBERG, in the 1980s, Israel had to go into Iraq to take out its nuclear facility. They could not have a U.N. meeting or whatever to discuss the situation. They had to destroy the plant for their own survival, and that is what they did.

This Senator thought at the time the United States went into Iraq it was because we faced clear evidence of peril. That is what the President told us. He said we cannot wait until the smoking gun is a mushroom cloud. So the lesson to learn is not just the heroism of the greatest generation but the mistakes.

We have to be awfully cautious. All six of us World War II vets say nobody wants to cut and run from Iraq. We hope yesterday's news was good, with this new council. It seems as if they have some support of the U.N. If President Bush can get that resolution out of the United Nations, we still have a chance to win in Iraq. That is still my hope.

I will conclude with the prayer to the fallen comrade:

Lord, lest I go my complacent way, Help me to remember that a man died for me today. So long as there be war, I must ask and answer, Am I worth dying for?

That is the test of this ''greatest generation'' still.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Madam President, I rise in the spirit of thanksgiving and pride as I stand in the Chamber with others who have served in World War II. I thank this body for the honor they have given all of us. But I say thanksgiving because I thank God. I thank God for being here. I thank God for being a part of this body. I thank my ma and my pa for bringing me into this world. I thank my wife Millie and my family for the support they have given me. I thank my buddies who served with me and trained with me in World War II.

I thank God for setting a new course not only for me but for our country. Because of World War II, we saw our country changing itself from being very prejudicial to being forgiving, and setting a new course not only for our country but for the world.

When I think of what helped me after I left the Army, I used the GI Bill of Rights program. That was, for me, one of the greatest programs. I would say that each of us here have benefited by using that to go to college. As a result of that, we were able to set our professions and eventually be elected to the Senate. But things have changed not only in our lives but in our country and the world. When I think of our country and how it has benefited from World War II, other countries, such as Germany, have also benefited from World War II. Japan has benefited from World War II. It has really changed the world.

So I thank God, my family, my buddies, and my colleagues here especially for the kind words and sentiments that have been given tonight. I feel proud to be part of this esteemed body. I thank my colleagues again and our leadership for this recognition. I want them to know that I am proud to have served our country.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I think it is appropriate that I am the last veteran of World War II in the Senate to rise because I am the youngest. I say that only because it reflects on my very modest career in World War II. I was but 17 in January 1945. The Navy called me and I served in training commands. All of our generation went in. It is hard to remember back, but everybody wanted to go. The Battle of the Bulge had just occurred, where my distinguished colleague here served. All of our high school class suddenly recognized that from this great and powerful Nation, for those 3 weeks of the Battle of the Bulge, there was an element as to when we would eventually have the victory for which we all prayed. It was no big deal. It was exciting.

I have always looked back on my modest service of less than 2 years because the war ended rather unexpectedly. We were all trained to go into the Pacific as the war in Europe had stopped. We were prepared to go aboard our ships as replacements for those who endured months and, in most instances, years of service. We talk about the youngsters who went off for 6 months today, or even for a year. But in those days, it was not unusual to be gone for 3 years and never go back home. We were all prepared as youngsters to go and were quite willing, well-trained, beautifully educated in our respective responsibilities. I was a radio-radar technician.

That was the spirit of America, which was totally unified behind us. My colleague paid homage, most appropriately, to the home front. I think Senator INOUYE said the Nation won the war, which is true. Behind all of the military people were hundreds of thousands at home.

What beautiful eloquence here today. It has been an enriching experience. Yes, I, too, think the medals should have gone to our parents, as Senator INOUYE said. My mother and my father died. He served in World War I in the trenches as a doctor, wounded and decorated. I was brought up knowing he and my mother had been associated with the Red Cross and tended the wounded. They would have expected their son to go, as did all parents in those days.

I served later in the Marines—that time as a staff officer in combat zones, but always in support of those in combat arms and in the air. I never claimed the title of a combat soldier. I am proud to have served with the distinguished men who did. They have been my big brothers. There have been 114 who served this body from World War II. I expect that in my 26 years, I served with half of them. I had a younger brother but never a big brother. Now I have had all these wonderful veterans who trained me. I would not be in the Senate had it not been for the discipline, sense of mission, self-reliance, and the sense that you owe a debt to your buddies in the military and others who helped you in life.

Lastly, the GI bill was the greatest investment ever made by this Nation for a generation. How proud all of us in this Chamber are today that we have continued that educational program, such that the current men and women in the Armed Forces are able to get those benefits, as did we, and hopefully they can have the careers we have had.

This is such a magnificent nation in which we live and we are so grateful. I am deeply humbled to be the youngest, the most inconspicuous, and the most modest in terms of military service, of all to participate on this memorable day. I express our appreciation first and foremost to God Almighty who for one reason or another spared those who have come to this Chamber, having served in World War II, to our parents, and to our buddies, fellow sailors, airmen, and marines with whom we served. I am grateful to our leaders who had the concept to bring this

memorable hour for all of us to share in and express our deepest gratitude.

I yield the floor.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

AMENDMENT NO. 3260, AS MODIFIED

Mr. WARNER. Madam President, we had a very important meeting between the distinguished chairman of the Appropriations Committee and the distinguished ranking member, Mr. BYRD. As a result of their consultation and advice to the distinguished Senator from Michigan and myself, I send to the desk a modified amendment.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 3260), as modified, is as follows:

(Purpose: To authorize appropriations for a contingent emergency reserve fund for operations in Iraq and Afghanistan)

On page 239, between lines 2 and 3, insert the following:

SEC. 1006. AUTHORIZATION OF APPROPRIATIONS FOR A CONTINGENT EMERGENCY RESERVE FUND FOR OPERATIONS IN IRAQ AND AFGHANISTAN.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2005, subject to subsections (b) and (c), $25,000,000,000, to be available only for activities in support of operations in Iraq and Afghanistan.

(b) SPECIFIC AMOUNTS.—Of the amount authorized to be appropriated under subsection (a), funds are authorized to be appropriated in amounts for purposes as follows:

(1) For the Army for operation and maintenance, $14,500,000,000.

(2) For the Navy for operation and maintenance, $1,000,000,000.

(3) For the Marine Corps for operation and maintenance, $2,000,000,000.

(4) For the Air Force for operation and maintenance, $1,000,000,000.

(5) For operation and maintenance, Defense-wide activities, $2,000,000,000.

(6) For military personnel, $2,000,000,000.

(7) An additional amount of $2,500,000,000 to be available for transfer to—

(A) operation and maintenance accounts;

(B) military personnel accounts;

(C) research, development, test, and evaluation accounts;

(D) procurement accounts;

(E) classified programs; and

(F) Coast Guard operating expenses.

(c) AUTHORIZATION CONTINGENT ON BUDGET REQUEST.—The authorization of appropriations in subsection (a) shall be effective only to the extent that a budget request for all or part of the amount authorized to be appropriated under such subsection for the purposes set forth in such subsection is transmitted by the President to Congress after the date of the enactment of this Act and includes a designation of the requested amount as an emergency and essential to support activities in Iraq and Afghanistan.

(d) TRANSFER AUTHORITY.—(1) Of the amount authorized to be appropriated under subsection (b)(7) for transfer, no transfer may be made until the Secretary of Defense consults with the Chairmen and Ranking Members of the congressional defense committees and then notifies such committees in writing not later than five days before the transfer is made.

(2) The transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense.

(e) MONTHLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees each month a report on the use of funds authorized to be appropriated under this section. The report for a month shall include in a separate display for each of Iraq and Afghanistan, the activity for which the funds were used, the purpose for which the funds were used, the source of the funds used to carry out that activity, and the account to which those expenditures were charged.

Mr. WARNER. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I know my good friend from Virginia is going to have to leave the Chamber in a moment, but before I make some remarks in general about our colleagues who are World War II veterans, while he is here I want to say what a privilege it has been for me, for 26 years now almost, to serve with JOHN WARNER of Virginia. I cannot think of a person who is more decent, civil, and gentlemanly, and the way in which he runs our committee is truly a model. He is part of a great tradition of committee chairmen whom he has noted many times whom he and I have served with, and whom he knew long before I did. He serves as chairman of the committee that represents our Armed Forces in this country and he does it with extraordinary diplomacy.

So even though it is not the Foreign Relations Committee, it is the committee of our Armed Forces. He is noted for his gentleness and civility. I am sure he learned some of this modesty as a member of the ''greatest generation,'' because they do not talk about what they did in World War II. As a matter of fact, this last Memorial Day I spent a lot of time with our veterans, their kids, their grandkids, and their great-grandkids, urging those kids and grandkids to get those veterans to share their histories because they are not going to volunteer it. They are not going to initiate any discussion about the events of World War II; they are too modest.

I do not know whether that is where my dear friend from Virginia got that wonderful modesty of his, that self-effacement, but from wherever he got it, it is treasured by every Member of this body and on this occasion I address him as a World War II veteran. Before I make my remarks about all of our other colleagues, I want to tell him what a treasured relationship this has been, and I thank him for his service.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. May I thank my dear friend. I do not in any way deserve what he said, but he and I do reflect often on how we got where we are and that is because of men such as Jackson, Stennis, Goldwater, and Tower, and the greats whom we have served under as chairmen of this committee.

The Senator from Michigan has been chairman of the committee. I have been chairman of the committee. We were trained by the best and we learned so much of what we practice today from those great teachers, Senators, of towering strength and wisdom. I thank my friend for sharing his thoughts with me. In every sense, he emulates those titans and giants who have run this committee.

Mr. LEVIN. I thank my friend.

I want to add one other thing, and that is the way in which he was able to modify the amendment is typical of the way Senator WARNER works. I will not go into the details because it is probably not even appropriate, but there were some differences on the wording of this amendment. He worked with some real giants in this Senate—Senator BYRD, Senator STEVENS, Senator INOUYE—to find a way to work through this difference. To the outside world, it would look like a very minor modification and in the scheme of things it probably is a modest modification, but it took some real effort, some real diplomacy, and some real willingness to look for the path through the bramble, and the Senator from Virginia found it. It was very typical. He sent an amendment to the desk and in about 4 seconds it is done, but it took a lot more than 4 seconds. It took the special character and the special approach of my dear friend from Virginia.

I thank him for his service as a World War II veteran, as well as all of our other colleagues.

This past weekend, the Memorial Day weekend, the Nation paused to dedicate the newly completed World War II Memorial and pay a long overdue tribute to the 16 million Americans who served in the Armed Forces During World War II, the more than 400,000 who died, and the millions who supported the war effort here at home.

The World War II Memorial is inscribed with many poignant quotes, including the words of President Harry S Truman: ''Our debt to the heroic men and valiant women in the service of our country can never be repaid. They have earned our undying gratitude. America will never forget their sacrifices.'' These words reflect the sentiments of countless Americans. All of us owe a tremendous debt to this ''greatest generation'' which sacrificed so much to protect our freedom and liberty.

Over this past weekend, I was privileged to meet with hundreds of these

veterans and their families who made the journey to Washington, D.C., from Michigan for the dedication of the monument. I heard many inspiring personal stories of these men and women. Nearly all spoke of the memory of those who did not return.

Those who were in Washington represented thousands and thousands of veterans who died in war, and those who were unable to make this journey and those who did not live to see the memorial constructed.

It was particularly moving to witness the pride that the sons and daughters, and the grandchildren, of these veterans took in their service. America will remember.

We in Michigan, in particular, are also mindful of the tremendous effort made ''back home'' by those who supported the war effort. Our State became known as the ''Arsenal of Democracy''. From jeeps to tanks to bombers to artillery, and even ambulances, the industrial strength of Michigan turned to production of the tools needed by those on the front lines. As National Geographical Magazine noted in 1944: ''It does not take long, in Michigan, to realize you are on a real battle front. The industrial sections roar with machinery.''

We, in the Senate, are fortunate to serve with six of these heroic veterans. These are my friends and colleagues and I value each of them for the many important contributions they have made to the Nation in this body. But, today, I salute them for their courage and for their sacrifice as young men in World War II and because they collectively represent millions of Americans who did their duty in their Nation's hour of need. Senator AKAKA of Hawaii, Senator HOLLINGS of South Carolina, Senator LAUTENBERG of New Jersey, Senator INOUYE of Hawaii, Senator STEVENS of Alaska, and Senator JOHN WARNER of Virginia—you have my admiration, my respect and my thanks.

We cannot ever repay the debt we owe to those who fought in our defense during World War II and those who supported their efforts on the homefront. This week, we have taken an important step in assuring that America will never forget their valor and their sacrifice. And, even as we do so, we think of and we honor the courage and commitment of our armed forces today in Iraq and Afghanistan fighting the enemies of freedom and democracy. These men and women, too, like the millions of Americans before them, have answered the call.

Mr. BYRD. Mr. President, on May 12, 2004, the President sent to Congress an amendment to his fiscal year 2005 budget request that would add $25 billion for the cost of the ongoing wars in Iraq and Afghanistan. The President's request amounted to a blank check: There were virtually no strings at all on how those funds could be used.

Senator WARNER, as chairman of the Armed Services Committee, held a hearing, at my request, on the day after this $25 billion request was sent to Congress. Members of the committee were nearly unanimous that Congress should not sign away its power of the purse by giving a rubberstamp approval to the President's proposal.

After reviewing the President's request, I developed several proposals to strengthen congressional oversight over the President's request. The funds should be authorized in discrete appropriations accounts for the missions in Iraq and Afghanistan. Reasonable limits should be placed on transfer authority, so that this budget request would not become a blank check. Needed funding for the Coast Guard operations in the Persian Gulf should be included in the $25 billion requested by the President.

Senator WARNER, Senator STEVENS, Senator LEVIN, and Senator INOUYE worked diligently to include my proposals in the amendment that is now before the Senate. Funds have been placed in regular appropriations accounts in order to promote oversight. The amount of funds that can be transferred to other accounts has been reduced from 100 percent to a reasonable 10 percent. Anticipated costs for Coast Guard operations have been funded.

I commend Senator WARNER and Senator STEVENS for their work on this amendment. I thank Senator LEVIN and Senator INOUYE for their steadfast efforts in working to provide the necessary funding for our troops while preserving the power of the purse. I would also like to thank Senator REID for his work in bringing this bipartisan amendment to a vote.

Approval of a this amendment is but one step in providing the necessary support to our troops in a manner that promotes accountability and oversight by the Congress. In the coming days, the Appropriations Committee will take up the Defense Appropriations bill. The Senate should build on its work here to insure that the appropriations bill includes similar provisions that preserve the power of the purse that resides with Congress. I look forward to working with my colleagues on that bill, in the same bipartisan manner as we did today, to support our troops and protect the Constitution.

Mrs. BOXER. Mr. President, since 2002, I have raised serious concerns about this administration's policy on Iraq, including the President's failure to plan for post-war Iraq and his inability to convince much of the world to share the burden by providing troops and funding.

However, I will support the President's request for $25 billion to support our military men and women who are serving so bravely under extremely difficult conditions.

When the President initially requested this additional funding on May 12, it was a blank check. It allowed the President to spend funds on any account within the DoD for any purpose having to do with Iraq or Afghanistan. Because of the good work of many in this Chamber, on both sides of the aisle, the Warner amendment is a significant improvement on the President's initial request.

The Warner amendment ensures that $20 billion of the $25 billion request will be spent on the operation and maintenance accounts of the Armed Forces and that $2 billion will be dedicated solely to the military personnel accounts. This is vastly different from the President's request, which would have given him the authority to spend the $25 billion in any manner in which he thought appropriate.

The Warner amendment also contains an important provision that requires a monthly report to Congress on the use of this $25 billion authority. With this reporting requirement, Congress can ensure that every penny is being used for the well-being of our military men and women who are serving this country with great honor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the vote scheduled for 6:30 this evening now occur at 6 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment. 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 Illinois (Mr. FITZGERALD) are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

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

[Rollcall Vote No. 106 Leg.]

YEAS—95

Akaka	Biden	Bunning
Alexander	Bingaman	Burns
Allard	Bond	Byrd
Allen	Boxer	Cantwell
Bayh	Breaux	Carper
Bennett	Brownback	Chafee

Chambliss	Gregg	Murray
Clinton	Hagel	Nelson (FL)
Cochran	Harkin	Nelson (NE)
Coleman	Hatch	Nickles
Collins	Hollings	Pryor
Conrad	Hutchison	Reed
Cornyn	Inhofe	Reid
Corzine	Inouye	Roberts
Craig	Jeffords	Rockefeller
Crapo	Johnson	Santorum
Daschle	Kennedy	Sarbanes
Dayton	Kohl	Schumer
DeWine	Kyl	Sessions
Dodd	Landrieu	Shelby
Dole	Lautenberg	Smith
Domenici	Leahy	Snowe
Dorgan	Levin	Specter
Durbin	Lieberman	Stabenow
Ensign	Lincoln	Stevens
Enzi	Lott	Sununu
Feingold	Lugar	Talent
Feinstein	McCain	Thomas
Frist	McConnell	Voinovich
Graham (FL)	Mikulski	Warner
Graham (SC)	Miller	Wyden
Grassley	Murkowski	

NOT VOTING—5

Baucus	Edwards	Kerry
Campbell	Fitzgerald	

The amendment (No. 3260) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

MORNING BUSINESS

Mr. TALENT. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

WILLIAM HOUGHTON

Mr. REID. Mr. President, I rise today to congratulate Mr. William Houghton on his selection by the Small Business Administration as the 2004 Nevada Small Business Person of the Year. It is my honor to recognize Mr. Houghton's achievement, as well as the hard work and ingenuity he has displayed in building his own business over the past 12 years.

The story actually begins in 1987, when Mr. Houghton got a job with a Las Vegas company that distributed business forms. His pay was just $5 an hour but he set his sights much higher.

In 1992 he became a partner with his former boss, and they formed their own firm called Horizon Business Systems. They started with one employee and did about $500,000 worth of business the first year.

Mr. Houghton eventually bought out his partner, and took on the challenge of overseeing the company's transition through the rapid technological developments of the late 1990s. His good business sense and strong leadership helped the business grow, and today it employs 12 workers and logs more than $2.2 million in sales.

Small businesses such as Horizon Business Systems are the engine that powers our Nation's economy, representing 99.7 percent of all employers, employing more than half our Nation's private sector workers, and creating up to 80 percent of all net new jobs annually.

In this spirit, the SBA's Small Business Person of the Year award seeks to acknowledge the critical role of small businesses in creating jobs and spurring economic growth, and the successes of individual small business owners throughout the country.

Please join me in congratulating Mr. William Houghton on the remarkable success of his business and on his selection as the 2004 Nevada Small Business Person of the Year.

JESSICA BARIS

Mr. REID. Mr. President, I rise today to congratulate Jessica Baris, a junior member of the American Legion Auxiliary L.D. Lockhart Unit 14 of Nevada, on her impressive commitment to academic excellence and community service.

It is always an honor to recognize a talented young person, and Jessica certainly fits that description. She has given generously of her time to many worthy causes, including serving more than 350 hours as a student tutor for young children in her community.

She also has helped organize several charitable events, including a fundraiser for Share Our Strength, an organization that fights hunger and poverty throughout the world.

Jessica also organized a clothing drive for needy children abroad. Most of the clothing was sent to U.S. serviceman in the Philippines, who distributed the items to local children. Her efforts not only helped those children, but also afforded our soldiers with a great opportunity to build goodwill in an important part of the world.

Jessica also received a grant from the United Way to create a ''Wall of Peace'' for Make a Difference Day. By organizing 20 teams of students to produce murals, the project spread awareness of the importance of tolerance and kindness in her school and community. Jessica wrote an essay on this project for the National Endowment for the Humanities' Idea of America contest that was recognized by First Lady Laura Bush at a White House ceremony.

She also participated in an essay contest sponsored by the Sons of the American Revolution, winning an award for her essay on the contributions of the unsung heroes of our Armed Forces.

Jessica's hard work and dedication to service culminated this year in her selection for a $25,000 college scholarship from AXA Financial Services. This young woman has tremendous potential, and I expect great things from her in the future. Please join me in congratulating Jessica Baris on her many impressive achievements.

ROTARY CLUB OF TONOPAH

Mr. REID. Mr. President, I rise today to congratulate the Rotary Club of Tonopah on its 80th anniversary. It is my honor to recognize the Tonopah club on this important milestone, which marks the lasting contributions of its members to the civic and economic life of the community.

Rotary is a worldwide organization of business and professional leaders dedicated to high ethical standards and humanitarian service. Approximately 1.2 million Rotarians belong to more than 31,000 Rotary clubs located in 166 countries.

The third oldest club in the State of Nevada, the Rotary Club of Tonopah received its charter on June 2, 1924. With the sponsorship of the Rotary Club of Reno, the Tonopah club's 19 charter members laid the foundation for an important and enduring institution in their community.

Since then the Tonopah club has embraced the high ideals of Rotary. The members of the club have developed opportunities for service in Tonopah, maintained high ethical standards in business and professional ventures, and done countless things to improve the quality of life in Tonopah, NV, and our Nation.

Please join me in congratulating the Rotary Club of Tonopah on its 80th anniversary and wishing its members the best of luck as they continue their work and service.

PRESIDENTIAL SCHOLARS 2004

Mr. REID. Mr. President, I rise today to congratulate Chase Correia of Galena High School in northern Nevada and Jeremee Peters of The Meadows School in Las Vegas on their selection as 2004 Presidential Scholars.

This award reflects a lot of hard work and a strong commitment to academic excellence on the part of the individual students as well as their schools.

The United States Presidential Scholars Program was established in 1964 by an Executive order of President Lyndon B. Johnson. Each year the program honors 141 students based on their academic success, artistic achievements, leadership and involvement in their school and community.

Chase and Jeremee are both exemplary students in these respects. Chase has a passion for science, has interned in a cancer research center, and is a member of the Reno Youth City Council. Jeremee is the valedictorian of her class, a very accomplished Spanish student, and a volunteer who teaches

young girls to play softball. Both Chase and Jeremee also have given generously of their time in volunteer service at local hospitals.

As Presidential Scholars, Chase and Jeremee will be invited to Washington, DC, along with their families and their most influential teachers, to participate in a variety of activities including panel discussions and a ceremony sponsored by the White House.

I would like to take a moment to recognize Chase and Jeremee's influential teachers: Ms. Kathleen Small and Ms. Karen E. Cox. As someone whose own life was transformed by education, I know first hand the value of good teachers and mentors like Ms. Small and Ms. Cox. Their commitment to Chase and Jeremee's education, and to the education of all their students, is truly commendable.

The State of Nevada can take great pride in Chase and Jeremee's accomplishments. They have tremendous potential, and we all expect great things from them. Please join me in congratulating Jeremee and Chase on their impressive accomplishments.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, today I 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.

On May 26, 2001, in Manteca, CA, Linell Reese was charged with a hate crime for allegedly attacking a man while yelling antigay epithets.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

SPECIALIST MICHAEL J. WIESEMANN

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man who went to high school in North Judson, IN. SP Michael J. Wiesemann, 20 years old, died at the Forward Operating Base Q-West, Quyarrah Air Base, Iraq, on May 29, 2004.

Michael graduated from North Judson-San Pierre High School in 2002 and joined the Army as a steppingstone to college and a better life, according to his mother. After joining the Army, Michael became a cavalry scout and was assigned to the Army's 1st Squadron, 14th Cavalry Regiment, 3rd Brigade, 2nd Infantry Division, out of Fort Lewis, WA. With his entire life before him, Michael chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Michael was the 28th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his mother, Karen; his stepfather, Robert; and his fiancée, Abby Trusty, whom he met in high school.

Today, I join Michael's family, his friends, and the entire North Judson community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. During his dedicated military service, Michael earned the Global War on Terrorism Service Medal and an Expeditionary Medal. It is his courage and strength of character that people will remember when they think of Michael, a memory that will burn brightly during these continuing days of conflict and grief.

When looking back on the life of her former student, Michael's high school English teacher, Carolyn Wyller told the Indianapolis Star that Michael ''was artistic and had a good sense of humor.'' Family and friends say Michael was known for his love of laughter and his big heart. Today and always, Michael will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Michael's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Michael's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Michael J. Wiesemann in the official Record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Michael's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Michael.

IMPORTATION OF PRESCRIPTION DRUGS

Mr. ENZI. Mr. President, I have never supported a bill that would allow for the importation of prescription drugs—until today.

I have decided to cosponsor Senator GREGG's bill to permit the carefully regulated importation of drugs approved by the Food and Drug Administration. The bill also would regulate the dispensing of medications by Internet pharmacies and strengthen the laws and regulations that protect Americans from the dangers of counterfeit drugs.

I have long opposed drug importation on the grounds that current laws, regulations, and practices are insufficient to allow for the safe opening of our currently closed drug distribution system. I have said that I could not support any plan to legalize drug importation that does not ensure that the drugs that are imported are safe, effective, and will not compromise the integrity of our Nation's prescription drug supply or our world-leading pharmaceutical research.

With that in mind, Senator GREGG's bill is the first piece of legislation I have seen that would craft an importation system with the appropriate safeguards and limitations necessary to protect the public health. Senator GREGG's bill would allow importation of FDA-approved drugs manufactured in FDA-inspected facilities only. His bill would permit the importation of drugs from Canada only, with the possibility that the FDA could approve importation from other countries in the future. His bill would also provide additional tools and resources for the FDA to use to protect American citizens from tainted or counterfeit drugs, and from scam artists selling medications on the Internet.

Senator GREGG has introduced a strong bill that addresses my concerns about the safety of drug importation and Internet pharmacies, and it's the only bill I've yet seen that I could support.

My main outstanding concern is that Senator GREGG's bill does not address the liability that sellers, distributors, and manufacturers of prescription drugs may face even under a regulated system of drug importation.

Our jurisdiction over foreign companies or individuals in the chain of drug distribution is limited at best. Irresponsible actions on their part could put responsible American companies and individuals at risk of substantial monetary liability. Without liability protection, American companies and individuals may choose not to participate in drug importation, which would defeat the purpose of enacting this legislation in the first place.

As this legislation moves in the Senate, I look forward to working with Senator GREGG, the other cosponsors of his bill, and other interested Members to address these concerns through sensible liability protections for sellers,

distributors, and manufacturers of prescription drugs.

I want to be clear on an important point: importing prescription drugs from other countries will not solve the problem of rising drug prices. Our market for prescription drugs is so large that we can not import enough lower-priced medications from other countries to make a significant impact on prices here.

There are many other ways that Congress is helping Americans afford their prescription medications. Just yesterday, for instance, the new Medicare drug discount cards went into effect. The cards offer savings of 10 to 25 percent or more off the current retail prices seniors pay, and seniors with low incomes also qualify for a $1,200 credit over the next 18 months to help pay for prescriptions.

Nevertheless, millions of Americans are still buying prescription drugs in Canada and other countries, or purchasing drugs from Internet pharmacies that operate outside the United States. Despite the fact that importing prescription drugs is against the law today, these Americans are taking their lives in their hands by going outside our closed drug distribution system and obtaining their prescription medicines from pharmacies and Internet sites that do not meet the high standards that we require domestically.

Right now, the Federal Government and State governments are looking the other way, crossing our fingers and hoping that no one gets hurt. So I am cosponsoring Senator GREGG's bill to put a strong and enforceable system in place to protect Americans against the dangers inherent in importing drugs from other countries. I also intend to work with Senator GREGG to oppose any election-year political maneuvering that would weaken the critical safety components of his legislation as we consider the bill in the Health, Education, Labor, and Pensions Committee, and on the Senate floor.

ENACTMENT OF THE STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT

Mr. LEAHY. Mr. President, I am pleased that the House of Representatives has now passed the Standards Development Organization Advancement Act, an important piece of legislation on which both parties and both Chambers have been able to reach accord. It is now on its way to the President's desk, and I am confident that he will sign it into law.

In April of this year, Senator HATCH, Senator KOHL, Senator DEWINE, and I worked to craft a bipartisan, fair version of this bill that will promote the development of technical standards while preserving antitrust laws that enhance competition. It has been rare during this Congress to achieve the type of consensus generated by our bill, and it illustrates what we can accomplish when both parties work together. This is an example of how Congress should function. I must also express my gratitude to Chairman SENSENBRENNER for all his efforts in the House of Representatives, not only for his critical role in shaping this legislation but also for the expeditious way he shepherded the bill through the House.

As I have noted many times, technical standards serve a vital if unseen role in allowing for interoperability of products and making sure that the goods we buy are safe and effective. Whether for airbags or for fire retardant materials, without technical standards, consumers would be less likely to make the purchases that fuel the engine of the U.S. economy. Even more important, aspects of our lives that we consider routine—perhaps even mundane—would take on added dangers without standards that allow consumers to feel confident that a given product is safe and reliable.

There is, however, an unavoidable tension between the antitrust laws that prohibit businesses from colluding and the development of technical standards, which require competitors to reach agreement on basic design elements. The Standards Development Organization Advancement Act eases this tension, allowing standards development organizations to continue their important work while preserving our antitrust laws that enhance competition and protect American consumers.

Without creating an antitrust exemption, the Standards Development Organization Advancement Act will allow standards development organizations to seek review of their standards by the Department of Justice or the Federal Trade Commission prior to implementation. This ''screening'' phase will not let a standards development organization escape penalty for a regulation that a court later rules is in violation of antitrust laws, but it will limit the organization's liability to single damages rather than the treble damages levied under current law.

Additionally, the bill amends the National Cooperative Research and Production Act of 1993, by directing courts to apply a ''rule of reason'' standard to standards development organizations and the guidelines they produce. Under existing law, standards may be deemed anticompetitive by a court even if they have the effect of better serving consumers. This legislation gives our courts the needed ability to balance the competing interests of safety and efficiency against any anticompetitive effect—it is a capability our courts need in order to fairly administer justice. Back in the 103rd Congress, I introduced the Senate version of the National Cooperative Production Amendments Act of 1993, and I am glad that we can today build on our earlier successes.

Title II of the Standards Development Organization Advancement Act also addresses several areas of our antitrust laws that merit updating, as our experience with the actual practice in the world has shown. Most importantly, it will eliminate the disparity between the treatment of criminal white collar offenses and antitrust criminal violations—a provision Senator HATCH and I had introduced in S. 1080, the Antitrust Improvements Act of 2003—and it will update and improve the Justice Department's amnesty program in the criminal antitrust context. It will also make some practical adjustments to the language of the Tunney Act. Finally, it will allow a judge to order publication of the comments received in a Tunney Act proceeding by electronic or other means. This provision will make these documents more accessible to the public while saving taxpayers the costs of paper publication.

I am glad that we can send to the President this bill that makes so many useful, fair, and bipartisan changes.

AMERICA'S FARMERS AND OBESITY

Mr. BROWNBACK. Mr. President, over the past 2 weeks, more than 2,000 farmers—including over 600 from Kansas, the most from any State—have signed a petition that will be sent to ABC News and TIME magazine today or tomorrow. The signers of this petition are to be commended.

Their request is simple. They want to ensure that their voices are heard in an upcoming summit on obesity sponsored by the two news outlets. At this summit, and in subsequent media coverage, ''experts'' will attempt to link Federal support for America's farmers to the country's obesity epidemic.

The individuals who signed the petition are frustrated, and rightfully so. This summit is a follow-up to the December news special, ''How to Get Fat Without Really Trying,'' where ABC dedicated more than 15 minutes of airtime to bash Federal support for farmers.

Unfortunately, no one from the agricultural community was afforded the opportunity to defend farming families or the policies on which they depend. And don't expect too many farmers to be on hand to defend themselves at the upcoming summit either, not with a $2,000 registration fee.

The agriculture community is not alone in its frustration. I am frustrated, too. So are many of my colleagues, like Senators BURNS and LINCOLN, who have also been vocal in their opposition to those who would blame farmers for America's bulging waistlines.

In the December special, Peter Jennings claimed ''not many people in the government have made the connection between subsidies to agriculture and obesity.'' At least ABC got one thing right. We haven't made that connection, because there is no connection to be made.

Consider this: federal farm support has been in place since the 1930s. Yet,

obesity is only a recent problem. Other nations that don't have obesity problems provide subsidies to their farmers to produce many of the same commodities grown in the U.S. The European Union, for example, doles out six times the subsidies that we do, yet obesity is less of a problem in the EU than here in America. Federal support is not causing drastically higher levels of production, as some suggest. In fact, America produced more wheat 20 years ago than today. Corn harvested for human consumption has only seen moderate increases from 10 years earlier. And soybeans—another commodity unfairly linked to obesity—experienced supply issues over the past year. According to USDA consumption statistics, Americans consume much less wheat than consumers in other countries that don't suffer widespread obesity problems. Data from the Centers for Disease Control indicate that in the past 20 years, the calorie intake of American kids has risen only about 1 percent, an increase that's in keeping with their increased heights. The big change is that they now get 13 percent less exercise.

Bottom line: America needs farmers. And farmers need a strong Federal farm policy.

America's farmers deserve our praise. They deserve our thanks. What they don't deserve is to be blamed for America's obesity.

COMMISSION TO STUDY THE POTENTIAL CREATION OF A NATIONAL MUSEUM OF THE AMERICAN LATINO COMMUNITY ACT OF 2004

Mrs. BOXER. Mr. President, before the Memorial Day recess, I joined with Senators HATCH, BINGAMAN, and HUTCHISON in introducing the Commission to Study the Potential Creation of a National Museum of the American Latino Community Act of 2004.

This legislation would create a national commission to study and plan for a National Museum of the American Latino, possibly in Washington, DC. Congressman XAVIER BECERRA and the Congressional Hispanic Caucus have sponsored companion legislation in the House.

Throughout our Nation's history, Latinos have enriched our culture and economy, and contributed to our national defense. In every American war and conflict, Latinos have served honorably next to their fellow Americans. It is time for our Nation's history and public institutions to fully recognize and celebrate our Latino community.

Though Latinos have been the largest ethnic minority group in California for some time, the Census Bureau recently reported that Latinos are now the largest minority group in the country and have grown in population in every region. As of July 2002, there were 38.8 million Latinos in the United States. One out of every three of these Latinos is under the age of 18. Also, the southern states other than Texas have seen the population of Latinos double between 1990 and 2000. The size, youth, and growth of this population ensure that American Latinos will continue to play a critical role in every region of the country and in every aspect of American life. As a result, a greater understanding of this population and its history will benefit all Americans.

The American Latino experience in the United States has a history as long as the Nation is old. From families with Puerto Rican and Dominican origins in New York to those with Cuban blood in Miami to the giant Mexican American and Central American communities in California and numerous other communities in every region of the country—American Latinos share a host of common values and similar experiences. A National Museum of the American Latino would help the larger American family celebrate this community's history and diversity.

The Smithsonian Institution is the world's largest museum and research complex, with 16 museums in the District of Columbia and New York City. The Smithsonian Institution museums, especially those on the National Mall, play a unique and important role in educating visitors to the Nation's capital about America's history, arts, and culture. The American people and international visitors recognize the Smithsonian Institution as the premier American museum, representing the vast diversity of cultural history of the United States. It is worth examining the potential for adding a National Museum of the American Latino to the Smithsonian family.

After extensive dialogue, conferences, and collaboration among educators, scholars, and community leaders as well as museums, universities, cultural, and public institutions, a task force appointed to examine the Smithsonian Institution's representation of American Latinos in its permanent exhibits and other public programs published ''Willful Neglect: The Smithsonian Institution and U.S. Latinos'' in May 1994 and ''Toward a Shared Vision: U.S. Latinos and the Smithsonian Institution'' in October 1997. The reports indicate that the Smithsonian historically had a poor record of representing Latinos. This criticism led to the creation of the Smithsonian's Center for Latino Initiatives in 1998.

The Center for Latino Initiatives has increased the profile of Latino arts and culture and deserves credit for promoting diversity and understanding of American Latino culture among the Smithsonian's visitors. The Center's short history has shown that American Latino exhibits and programs are well received by the public and by the Latino community, which benefits from having some representation at the Smithsonian. Still, the level of representation at the Smithsonian of the Latino community is far from where it should be given the American Latino history, demography, and contributions to the American cultural landscape.

I thank Senators HATCH, BINGAMAN, and HUTCHISON for joining with me in introducing this bill. I look forward to working with them to pass this legislation, and I encourage all my colleagues to join us in this effort.

ROMA STILL WAITING FOR THEIR ''BROWN V. BOARD OF EDUCATION''

Mr. CAMPBELL. Mr. President, 2 years ago, the United States Helsinki Commission, which I co-chair, held its third hearing on the human rights problems faced by Roma. At that time, we gave particular attention to the barriers Roma face in the field of education. As the OSCE High Commissioner on National Minorities said in his very helpful report on Roma in OSCE region, ''exclusion of Roma extends to every sphere of social life, perhaps nowhere with more far-reaching and harmful effect than in respect of schooling.''

In other words, ensuring equal access for Roma in the fields of education is an essential element for their integration in other areas of life. The World Bank and United Nations Development Program have also emphasized, in their reports, that integration in education is an essential ingredient for improving the overall conditions in which Roma live.

Last month, as our own country was commemorating the Supreme Court's historic decision in Brown v. Board of Education, the European Roma Rights Center issued a report entitled ''Stigmata: Segregated Schooling of Roma in Central and Eastern Europe.'' This report evaluates practices and policies in Bulgaria, the Czech Republic, Hungary, Romania, and Slovakia and describes the most common ways of segregating Romani children from non-Roma: channeling Roma into so-called ''special schools'' for children with developmental disabilities; the de facto segregation that goes hand-in-hand with Romani ghettos; having mixed population schools where Romani children are segregated into all-Romani classes; and the refusal of some local authorities to enroll Romani children in mainstream schools.

The European Roma Rights Center report concludes that, unfortunately, ''with the exception of Hungary, concrete government action aimed at desegregating the school system has not been initiated to date.'' It is surely not a coincidence that Hungary is also the only country in Europe where the mainstream political parties have started to compete for the Romani vote—both developments which reflect meaningful steps towards the real integration of Roma in that country.

As the European Roma Rights Center notes, segregated schooling is the result of many factors which conspire together—not the least of which is the

pernicious stereotype that Romani culture is somehow incompatible with education. This fiction continues to be widely held and disseminated by the media, by government officials and public leaders, and sometimes even by the representatives of respected international organizations. Frankly, this myth needs to be debunked.

In reality, before World War II, there was no country in Europe that allowed Roma to attend school and maintain their language and cultural identity at the same time. Formal schooling, by definition, meant forced assimilation. It is amazing testimony to the strength of Romani culture that—after centuries as a dispersed people in Europe, after slavery in Romania and Moldova, after forced assimilation campaigns, and after the Holocaust—Romani identity has survived.

For most Roma in Europe, concentrated in countries that fell behind the Iron Curtain, it is only the context of a post-communist world, a Europe which has now recognized the rights of ethnic and linguistic minorities, that the theoretical opportunity to be educated without having to hide or surrender one's Romani identity is within grasp. Kids like Elvis Hajdar, the Romani-Macedonian computer whizkid the Christian Science Monitor profiled in April, embrace this opportunity.

For many other Roma, however, educational opportunities remain only distant and only theoretical. And, contrary to popular mythology, it is not Romani culture that holds them back, but crushing poverty and entrenched racism.

Education is the key to breaking the cycle of poverty and it is no surprise that Romani organizations across Europe have made access to education one of their principle demands. Moreover, the ''Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area,'' adopted at the Maastricht Ministerial last December, the OSCE participating states outlined a variety of concrete measures states might undertake to achieve this goal. But desegregation will not just happen on its own. It will take leadership and political will and—as we know from our own experiences after the Brown decision—it may still take many years. The time to get started is now.

OREGON'S DEATH WITH DIGNITY ACT

Mr. WYDEN. Mr. President, last week, the U.S. Court of Appeals for the Ninth Circuit ruled to uphold the Oregon Death with Dignity Act. This ruling is the latest rebuff to U.S. Attorney General John Ashcroft's efforts to overturn Oregon law. The ruling makes clear that contrary to Attorney General Ashcroft's viewpoint, the Controlled Substance Act does not override the constitutional right of a state to regulate medical practice, including the choice of the citizenry to determine whether they want to allow physicians to aid terminally ill patients.

Oregon voters first approved a physician-assisted suicide ballot measure in 1994, but the Oregon legislature did not agree with their decision and put the matter on the ballot a second time. In 1997, Oregon voters overwhelmingly voted once more to allow physician-assisted suicide.

Almost immediately, however, federal politicians 3,000 miles away began efforts to deny Oregon citizens their long recognized right to choose their own course. Over the course of several Congresses, the attempts to overturn Oregon law and the wishes of Oregon voters through general legislation also failed.

Having failed in Congress, I predicted in December 2000, that President Bush would instruct his Attorney General to reinterpret federal law in an effort to invalidate the will of Oregon's voters. The recent ruling by the Court of Appeals for the Ninth Circuit to preserve the Oregon vote is the second setback to the Attorney General's attempts to reinterpret federal law.

Since I was first elected to the United State Senate, I have not wavered in my defense of the choice of the citizens of Oregon. If others see this ruling as an invitation once again to attempt to overturn Oregon law through federal legislation, I will be there again to stand up for my state. Therefore, I want to notify my colleagues that I will be reviewing every piece of legislation that may come before the Senate and will not grant my consent to consider any measure or matter that contains provisions that would overturn the Oregon Death with Dignity Act.

50TH EDITION OF THE NATIONAL ELECTRICAL CODE

Mr. KENNEDY. Mr. President, I welcome this opportunity to bring to the attention of my colleagues a special event taking place next month, when the National Fire Protection Association, NFPA, headquartered in Quincy, MA, will publish the 50th edition of the National Electrical Code.

First published in 1897, the code provides a blueprint for safeguarding schools, hospitals, homes, and workplaces from the potential dangers of electricity. The code is recognized throughout the United States and is used extensively in other nations. In many respects, it is the most widely accepted building construction code in the world. According to Bob Vila, the well-known home improvement personality, the code ''. . . not only promotes best practices, it is also a nearly universal document which helps everyone in the business achieve the safest possible results.''

The wide acceptance of the code as a public safety document is a tribute to the success of the National Fire Protection Association's voluntary consensus process, which is used by the Association to develop many other safety codes and standards as well. The process is accredited by the American National Standards Institute and is the same voluntary consensus process mandated for Federal agencies by Congress in the National Technology Transfer and Advancement Act of 1995.

The National Electrical Code is currently updated every 3 years and is the result of thousands of hours of work by more than 450 representatives of the enforcement community, the construction industry, organized labor, the manufacturing sector, suppliers, and the insurance industry. Before a new edition of the code is published, members of the public are invited to provide input. Upon completion of that process, the document is then voted on for adoption by the entire membership of the Association. By continually updating the code to address new emerging technologies and construction methods, the association has enabled Americans to enjoy an unparalleled level of safety against electrical hazards.

I congratulate the association and the many volunteers who have spent so many hours to make the 50th edition of the National Electrical Code a reality. They deserve the Nation's gratitude for their skill and dedication in providing this extraordinary public service.

BIRTH OF ELIZABETH MERRELL LUGAR

Mr. LUGAR. Mr. President, during this past recess of the Senate, my wife Charlene and I received the joyous news that Elizabeth Merrell Lugar, the newborn daughter and first child of our son, David Riley Lugar, and his wife, Katherine Graham Lugar, had been born on May 25, 2004, at Sibley Memorial Hospital, Washington, DC. Elizabeth was a healthy 7 pounds, 2 ounces at birth. Lawrence Graham and Jane Graham, Charlene, and I greeted our new granddaughter and her parents at a family dinner in their McLean, VA, residence on May 31.

Katherine and David were married on June 3, 2000, in St. David's Episcopal Church, Austin, TX. Katherine, a graduate of the University of Texas, is vice president of government affairs of the National Retail Federation. David Lugar came with us to Washington, along with his three brothers, 27 years ago. He graduated from Langley High School, McLean, VA, and Indiana University and is a partner of Quinn Gillespie & Associates. Both Katherine and David are well known to many of our colleagues and their staff members.

We know that you will understand our excitement and our joy that they and we have been given this divine blessing and responsibility for a glorious new chapter in our lives.

ADDITIONAL STATEMENTS

20TH ANNIVERSARY OF THE URBAN SCHOLARS PROGRAM

● Mr. KENNEDY. Mr. President, this year marks the 20th anniversary of the Urban Scholars Program of the University of Massachusetts Boston. The program was created to provide academically talented students in urban middle and high schools the skills and motivation to achieve their full potential. In 1984, UMass Boston and the Boston Public Schools formed a partnership that helped the first 15 students and the program has grown increasingly ever since. Today, the program lists hundreds of graduates who have gone on to earn undergraduate and advanced degrees.

The Urban Scholars Program is a year-round enterprise featuring rigorous after-school classes, seminars, tutoring and supervised study. In the summer, the program offers a 7-week institute in which students are immersed in science, technology, and humanities courses not offered at their high schools, and many earn college credit for their work. Students and their families make sacrifices to participate, but they work hard, and the results are remarkable.

A study showed that participants in the Urban Scholars Program improved attendance and academic achievement. And over the past 20 years, 100 percent of the Urban Scholars have been accepted at colleges across the country. They have an 85 percent college retention rate, compared to the 50 percent national rate. Investing early in these talented young men and women pays off for the students and the entire community.

UMass Boston deserves great credit for its commitment to this outstanding program, and I especially commend Adaline Mirabal, the director of the program, and Joan Becker, its administrator. Their skillful work and dedication has transformed the lives of these young students, and has demonstrated the immense possibilities of early intervention in bringing a first-class education within reach of every child.●

HECTOR BARRETO, SR.

● Mr. TALENT. Mr. President, I rise today to mourn the passing of a great businessman and a pioneer in the Hispanic community, Mr. Hector Barreto, Sr. The story of his life and his accomplishments are truly inspiring, and his leadership will be sorely missed.

Hector Barreto, Sr. was born in Mexico City and raised in Guadalajara, Mexico. In his early twenties, he immigrated to Kansas City, MO, where he met and married his wife, Maria Luisa. He started out digging potatoes on a farm near Corning, MO, for 80 cents an hour. After saving money from years of work, he was able to start his own restaurant, Mexico Lindo, which means ''Beautiful Mexico.'' Though Mexican restaurants were rare in Kansas City in the 1950s, Hector's business thrived, and its success allowed him to open a second and third restaurant as well as an import company and a construction firm.

In 1979, Hector founded the U.S. Hispanic Chamber of Commerce along with several other Hispanic business leaders. For the last 25 years, the Hispanic Chamber has represented the interests of the Nation's more than 1.2 million Hispanic-owned businesses and harnessed the vast economic potential of Hispanic Americans. Also in 1979, Hector decided to delve into politics, supporting Ronald Reagan's successful Presidential bid and eventually working on his transition team. President Reagan addressed the Hispanic Chamber of Commerce in 1983, becoming the first sitting President to address such a conference.

Hector was also quite proud of his son, Hector Barreto, Jr., who like his father has made a name for himself in both business and politics. Hector Jr. delivered a speech at the Republican National Convention nominating George W. Bush for President, and President Bush later appointed him the administrator of the Small Business Administration.

Hector leaves behind Maria Luisa, his wife of 43 years, his children Hector Jr., Anna, Gloria, Rosa, and Mary, and 12 grandchildren. His efforts opened doors for millions of Hispanics and other Americans, and his legacy as a successful entrepreneur who lived the American Dream will live on.●

TRIBUTE TO THE HONORABLE GLENN CUNNINGHAM

● Mr. CORZINE. Mr. President, on the night of Tuesday, May 25, 2004, New Jersey lost one of its most dedicated public servants, Jersey City Mayor and State Senator Glenn Cunningham. It was a terrible tragedy and terrible loss to the people of Jersey City and New Jersey.

Mayor Cunningham was a compassionate public official who was deeply committed to his city, his State, and his country, serving 4 years in the U.S. Marine Corps before returning home and beginning a life-long career rooted in his pride in Jersey City and his caring for his fellow citizens.

He was a police officer, Hudson County freeholder, Jersey City councilman, and U.S. marshal. He distinguished himself further as a fierce and aggressive fighter for Jersey City as the city's mayor and State senator. His voice was strong and his love for his city boundless.

He worked every day to bring his diverse community together, to unite rather than divide. As the State's first African-American U.S. marshal and Jersey City's first African-American mayor, Glenn Cunningham plowed a path of excellence for others to follow.

Sadly, his tenure as mayor was far too short, and he will be missed by those he served. As Annette McMillian of Jersey City told the Jersey Journal last week, ''He was fair and decent and honest.'' Terry Suarez of Union City added poignantly, ''A light has been darkened by the silence of death.''

I join those who will miss Mayor Cunninghams great energy, creativity, and perspectives on government and public service. On behalf of the people of New Jersey, I extend my deepest condolences to the mayor's widow, Sandra Bolden-Cunningham, and my prayers are with his family and his beloved community of Jersey City.●

COMMENDING THE CAREER OF FRANCES PRESTON

● Mrs. BOXER. Mr. President, Frances Preston, the president and chief executive officer of BMI announced in April that she is stepping down from her leadership role at BMI. Though I know she will continue to play a role at BMI, I take this opportunity to commend her for distinguished and dedicated service to the writers, composers, and publisher of BMI, as well as to the broader creative community.

For many years, Mrs. Preston has successfully guided BMI to a position of international leadership in the entertainment industry. She is one of the industry's most widely admired executives. Fortune magazine has called her ''one of the true powerhouses of the pop music business.''

In large part as a result of her business and creative acumen, BMI today represents legendary artists ranging from Sting to Paul Simon to Shania Twain. And, in the world of public policy, Mrs. Preston has been a strong voice for creators' rights. She also maintains a passionate dedication to a number of charities and serves in a volunteer capacity as the president of the largest medical charity, the T.J. Martell Foundation for Leukemia, Cancer and AIDS Research.

The list of awards Mrs. Preston has received for excellence in industry and public service is too long to list here. They range from being the first nonperforming woman invited to join New York's prestigious Friar's Club in 1993 to the American Women in Radio and Television's Outstanding Achievement Award in 1998 to induction in the Broadcasting and Cable Hall of Fame in 1999. More recent honors include the Touchstone Advocate Award from Women in Music in October 2003 and the NARAS Heroes Award from the New York Chapter of the Recording Academy in December 2003.

Frances Preston has been successful in business, a leader in her community, and generous in her service. She leaves a lasting legacy of leadership and excellence.●

FIFTH GRADE STUDENTS WRITE ELOQUENTLY ABOUT IMMIGRATION AND AMERICA

• Mr. KENNEDY. Mr. President, this year thousands of fifth graders across the United States competed in a writing contest on immigration sponsored by the American Immigrant Law Foundation and the American Immigration Lawyers Association. The students responded to the question, ''Why I'm Glad America is a Nation of Immigrants.''

I had the privilege of serving as one of the judges for the competition, and I was impressed with the students' responses. They radiate with pride for the diversity of America and our immigrant heritage. Many students told personal stories of their families and friends and their immigration to the United States.

The winner of this year's contest is Audrey Kidwell of Clayton, MO. In her essay, ''The Garden of America,'' she explains how immigrants' new roots become ''entwined'' with the roots of others helping us to ''incorporate their strong points into our ever-growing garden.'' The United States has often been compared to a melting pot or a colorful patchwork quilt, and Audrey's eloquent essay adds a new vision of a garden ''watered with kindness and friendship causing us to grow and to flourish.''

Other students honored for their exceptional writing are Camille Allamel of Indianapolis, Sarah Mesterton-Gibbons of Tallahassee, Daniel Pietryla of Chicago, and Sam Sanson of Bay Village, OH. I congratulate these students on their outstanding achievement.

These award-winning essays will be of interest to all of us in the Senate, and I ask that they be printed in the RECORD.

The material follows:

THE GARDEN OF AMERICA

(By Audrey Kidwell, Wilson School, Clayton, MO, Grand Prize Winner)

Many people have said that America is like a melting pot or stew, but I think our country is more of a garden. In a melting pot, all of the ingredients blend together into mush. When you make stew, it all becomes one flavor and nothing stands out. Try as I might, I can't think of any food that is truly able to be associated with America. But a garden is different.

When an immigrant first comes to America, he or she puts out new, young roots into the soil of our heritage. These roots become entwined, almost connected you might say, to other root systems, holding the soil together. With the soil held together, we are saved from erosion. We learn of the ways these people have suffered in their countries, so we know which mistakes not to make. It is good this way because when we learn about other nations, we can incorporate their strong points into our ever-growing garden. For this reason, the sun of freedom always shines over our garden.

Even though we are all different, we all originated as seeds. Some of us are violets or mums, some ferns or vines, but none of us are weeds. We are all beautiful. This is wonderful because in many other places, no one accepts differences. In our garden we all help each other because our roots hold the soil together. Our garden is watered with kindness and friendship causing us to grow and to flourish. These things are good because in other places, the soil crumbles; the plants dry up, but not in America.

I love America because it has so many good qualities. We offer a home to immigrants so that they can be happy. They, in turn, make our nation stronger and help it to thrive. They pass on new traditions to us and enrich our culture. I can't imagine what our garden would be like without immigrants. It would be similar to a garden with only roses. Roses are nice, but I think variety and diversity is better. We are all lucky and should be thankful to be rooted in the garden of America.

AMERICA, THE MOSAIC

(By Camille Allamel, International School of Indiana, Indianapolis, IN, Runner-Up)

Over time, America has become,
A gorgeous mosaic made of precious, living stones.
The jade stands for Asian immigrants,
Who brought mysterious China Towns and fireworks,
Along with sweet and sour chicken.
The ruby symbolizes the Hispanics,
With their juicy burritos and tacos,
Fiestas, mariachis, and piñatas!
The sapphire represents the French,
Down to Louisiana,
Right to Cajun Land,
With jambalaya, gumbo, and zydeco.
The emerald stone is for Italians,
Who have brought pasta and pizza along.
Now, the diamond,
Who is dedicated to this special group,
Forced to make it here,
Because of slavery,
When finally free,
Deciding to stay,
They are the African Americans!
Let's not forget the native turquoise,
Made for the Indians the immigrants have found,
Who have introduced and shared this beautiful land
That we today call America.
There are so many other stones,
Too many to name them all,
These immigrants who brought their history,
Their customs and their ministries,
Together create this grand mosaic,
Making all these people,
United to form America,
In a unique melting pot!!!

WHY I AM GLAD THAT AMERICA IS A NATION OF IMMIGRANTS

(By Sarah Mesterton-Gibbons, Home School, Tallahassee, FL, Runner-Up)

You might not be able to tell from looking at me, that I come from a family of many immigrants. My friends might think that I look ''American,'' but they don't realize that each part of me reflects the characteristics of my ancestors. For example, I got my blonde hair from my Swedish relatives, my green eyes from my Northern Spanish relatives, my fair skin and freckles from my Irish relatives, my short height from my Puerto Rican relatives, and my facial shape from my Finnish relatives.

Immigration is common in my family, and many of my relatives have married people from different countries, faiths and backgrounds. Two of my grandparents and all of my great-grandparents immigrated from different countries, and many of my great-great-grandparents were immigrants, too. My father immigrated here from England. His parents went to England from Ireland. We all have different accents than our looks. And different interests and celebrations.

My friends think it's unusual that we celebrate different holidays and eat different foods, but they also find it interesting. We celebrate Christmas on Christmas Eve as they do in Europe, and also Santa Lucia Day and Midsommar as they do in Sweden. We'd much rather eat rice and beans, chapattis, spanikopita, Cornish pasties and ratatouille than typical American dishes. My sister and I have even learned to cook the dishes ourselves. When we listen to music, we listen to everything from Irish jigs, to Swedish polkas, to Spanish sambas to English folk songs. Our house is filled with furniture and articles from all over the world. Our lifestyle reflects our many nationalities. Even our very best friends are from many countries.

Even though I look typically American—but am not—I AM a typical American, because we are all immigrants or descendants of immigrants. And that is wonderful, because it means it is easy to find the food, decorations and costumes to celebrate holidays as my ancestors have done.

This varied cultural background has enriched my life. The people I love have taught me about their religions, customs, food and celebrations. No matter who I'm with, or what country I'm in, I feel very much at home. Thanks to my Dad, I feel especially at home in England.

Being exposed to so many different opinions has made me look at America's problems in new ways. I often find that other countries have handled similar problems in better ways than we have and I hope I'm open-minded enough to learn from them. I would like to convince my country to consider many world views before making decisions. And I hope my fellow immigrants try their very best to do the same. Maybe if we remember that we are all immigrants, then we can continue to make America a better place to live.

WHY I AM GLAD THAT AMERICA IS A LAND OF IMMIGRANTS

(By Daniel Pietryla, St. Christina School, Chicago, IL, Runner-Up)

Dedicated to my parents, grandparents and to all immigrants who have endured personal hardships for the sake of their children. Leaving their homelands and bravely entering a foreign country with hopes and dreams of freedom, happiness and prosperity. The gift of America, a gift of immigrants!)

My ancestors are from Poland, Where life was hard and long, Their future was in a new land, America is where they belong.

The dirt floor, wooden shack, Beds of feathers and straw, The privy around back, Was the last thing they saw.

They turned and gazed, For one last look, The home where they were raised, Is the memory they took.

Over the Atlantic by ship, many hardships were endured, Herbal tea they would sip, their senses were blurred. Days and nights of wondering, Frightened and alone were they, Deep doubts were pondering, Through this long, long way.

Two weeks of seasickness, Unsure of their choice, America came in darkness, No one did rejoice.

They boarded a train, Never understanding the words, Lightning and rain, Were all that they heard.

The train's wheels were squealing, The sudden stop that they felt, Nervous stomachs were feeling, And hearts about to melt.

Streetlights and cars Intensifying the fear, And heard from afar, A familiar voice so clear.

''Welcome, Welcome, You're finally here!'' Our senses were numb, They broke into tears.

America at last! Everything so new, Letting go of the past, It's a hard thing to do.
Grandpa and Grandma, My Mom and her brothers, From Poland to America, Similar stories of others.
Son of an immigrant, America, my home,
A story so important, Memorialized in poem.
Our ancestors from somewhere, So brave and alone, Gave a gift so rare,
America, Our Home!

AMERICAN STEW

(By Sam Sanson, Bay Middle School, Bay Village, OH, Runner-Up)

Every American's favorite . . .
One pound of potatoes and a teaspoon of Irish humor
One ounce of coconut and 3 cups of Filipino faith
Five ounces of noodles and a liter of Italian artwork
One pound of kielbasi and ½ tablespoon of Polish courage
One teaspoon of sauerkraut and a cup of German determination
Five teaspoons of soy sauce and an ounce of Chinese history
Two pounds of escargot and a tablespoon of French cooking
Two tablespoons of tea and six ounces of British etiquette
One ounce of figs and one pound of African tribal dancing
Two pounds of Korean rice and ½ tablespoon of Korean silk
We hope that you enjoy ''America's Stew.''
With all of the surprising ingredients, it makes the most interesting and exciting meal of all!●

DR. JOHN H. HOPPS, JR.

● Mr. ROBERTS. Mr. President, I rise today to pay tribute to a great educator and champion of science and technology, who recently passed away.

Dr. John Hopps was a true public servant who most recently furthered the cause of our national security as deputy director of defense research and engineering and deputy under secretary of defense for laboratories and basic science at the Department of Defense. As chairman of the Senate Armed Services Subcommittee on Emerging Threats and Capabilities, I had the privilege of knowing John and witnessing first-hand his support of programs, projects and personnel in the defense laboratories.

Prior to his position with the Department of Defense, Dr. Hopps worked to encourage our Nation's youth in their pursuit of academic excellence, especially in this fields of physics and chemistry. As provost and senior vice president for academic affairs and professor of physics at Morehouse College, John was in a position to guide young minds and manage academic departments and multi disciplinary programs.

Immediately before joining Morehouse College, John Hopps served as director of materials research at the National Science Foundation. During his tenure with Draper Laboratory, which began in 1977, John was manager of energy program development, manager of the laboratory's fault-tolerant systems technology research program, and education director for the laboratory.

During his tenure as deputy director of defense research and engineering, Dr. Hopps made great strides in reaching out to the scientific and academic communities and in working to ensure the technological superiority of the defense laboratories and workforce who develop the tools, protective equipment and weapons that are so important to the U.S. warfighter of today and tomorrow. Under his leadership, the Department increased the National Defense Science and Engineering Fellowship Program and pursued a program and structure—Materials World Modules—he developed to connect students of all ages to the excitement and value of science.

This year's defense authorization bill contains a provision that authorizes the Department to establish a pilot science, mathematics and engineering scholarship program that will continue much of the work championed by John in his efforts for the Department of Defense and in his other positions both inside and outside the Federal Government. John's academic background combined with service in the Federal Government gave him a unique perspective on the importance of basic research for future technological advances, linkages he helped us all to make.

John Hopps' patient, deliberative manner, keen sense of humor, and compassionate approach to life and work will be missed by the many students, educators and public servants, whose lives he has touched. My deepest sympathies go out to Dr. Hopps' wife, family and friends, and to all who knew and loved him.●

SERGEANT JIM MULLEN

● Mr. BUNNING. Mr. President, I pay tribute and congratulate SGT Jim Mullen on his reception of the Bowling Green firefighter of the year award given to him by his peers at the Bowling Green Fire Department.

Sergeant Mullen has dedicated himself to helping those in need in the Bowling Green, KY area. In addition to the firefighter of the year award, Sergeant Mullen also received the Community Service Award from the department. He earned this commendation through such activities as coaching and administering the city soccer league. He has done a wonderful public service of making Bowling Green a safer and better place to live.

The citizens of Kentucky are fortunate to have the leadership of SGT Jim Mullen. His example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth.

He has my most sincere appreciation for this work and I look forward to his continued service to Kentucky.●

CITY YEAR'S 15TH ANNIVERSARY

● Mr. KENNEDY. Mr. President, on June 4th hundreds of talented, motivated young men and women will meet in Boston to celebrate the 15th Anniversary of City Year. In 1989 the first group of young people completed a year of service to their community, inspiring what would become AmeriCorps. Now, 15 years later, City Year will hold its annual meeting in the city where it began. Since then, thirteen additional cities have welcomed the young idealists in red jackets and Timberland boots who, in their own words, ''are young enough to want to change the world and old enough to do it.''

City Year recruits start each day with ''PT,'' a trademark exercise routine to wake up the mind and spirit to take on the challenges of the day. They move on to challenge the apathy in the communities they serve. They spend each day tackling illiteracy, tutoring, refurbishing buildings, improving access to health care, and changing lives in many other ways.

City Year participants also work tirelessly to encourage others to serve, attracting volunteers through Serve-a-thons and special service days that focus community efforts on a particular project. They spread their love of service and highlight local problems that can be solved by working together.

''Cyzygy,'' their annual meeting, is a time when they celebrate service and discuss strategies to improve recruitment, retention and the quality of service. Just as they work to improve communities, they work to improve the way communities address their problems, and engage others in the search for effective solutions.

When they launched City Year in the 1980's, Alan Khazei and Michael Brown had a noble vision that spending a year in service to community could become the norm. They foresaw a domestic Peace Corps that could transform lives and rebuild communities. At the time, many thought they were impractical dreamers. Today we know they were practical visionaries and we are all proud to witness the results of their vision. Happy Birthday, City Year!●

OHIO UNIVERSITY'S BICENTENNIAL

● Mr. VOINOVICH. Mr. President, the State of Ohio is home to Ohio University, the first public institution of higher learning in the old Northwest Territory. This institution, my alma mater, celebrates the 200th anniversary of its founding this year.

On March 1, 1803, Ohio became the Nation's 17th State. Less than a year later, on February 18, 1804, the Ohio General Assembly approved Ohio University's charter.

Ohio University is the realization of the Jeffersonian ideals of educating broadly and cultivating minds and ideas so that people can reason out their differences. Officially established in 1804, the university opened in 1808 with three students. In 1815, Ohio University award its first two bachelor's

degrees. By the end of the Civil War, the university had graduated a total of 145 students. By 1920, the student population was 1,072, but it was not until after World War II that the university began to approach its present size.

In the 1950s, the student population grew from 4,600 to 8,000, and the 1960s saw enrollment burgeon from about 10,000 to some 18,000 students on the Athens campus. Today, the Athens campus is comprised of more than 200 buildings on 1,800 acres, including state-of-the-art facilities featuring the latest in educational technology. Reinforcing the university's ongoing commitment to diversity, the Athens campus serves approximately 20,000 students hailing from all 50 States and about 100 nations. The university's service as a major educational and cultural institution in southeastern Ohio includes regional campuses in Chillicothe, Ironton, Lancaster, St. Clairsville, and Zanesville. These regional campuses collectively enroll about 8,500 students, making the full-time, part-time, and continuing education enrollment for Ohio University nearly 29,000.

The university offers more than 270 undergraduate areas of study and a 20 to 1 undergraduate student-to-faculty ratio. On the graduate level, the institution grants master's degrees in nearly all of its major academic divisions, and doctoral degrees in selected departments. Ohio University is fully accredited by the North Central Association of Colleges and Schools and has been designated a Doctoral/Research University-Extensive, the highest classification, by the Carnegie Foundation for the Advancement of Teaching.

Throughout its life of change and growth, Ohio University and the town it calls home, Athens, has still successfully balanced all the advantages of a major university with the appeal of a caring and personal atmosphere. If there ever was a college town, Athens is it. The university's intellectual and cultural environment blends well with Athens' lively and quirky small-town atmosphere to create a setting where students, faculty and town residents live together in a community whose quality of life is difficult to match.

A university of people, not a place or buildings, and the people of Ohio University—its students, staff, faculty, and alumni—have made their world a richer place. I am proud to be a Bobcat and proud of the accomplishments that so many alumni have made.

Congratulations to Ohio University on 200 years of history, rich in providing excellence in higher education.●

MESSAGE FROM THE HOUSE

At 11:06 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 265. An act to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes.

H.R. 2912. An act to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government.

H.R. 4060. An act to amend the Peace Corps Act to establish an Ombudsman and an Office of Safety and Security of the Peace Corps, and for other purposes.

H.R. 4317. An act to name the Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, as the ''Charles Wilson Department of Veterans Affairs Outpatient Clinic''.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 295. Concurrent resolution congratulating and saluting Focus: HOPE on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States.

H. Con. Res. 417. Concurrent resolution honoring the Tuskegee Airmen and their contribution in creating an integrated United States Air Force, the world's foremost Air and Space Supremacy Force.

The message further announced that the House has passed the following bill, with an amendment:

S. 1233. An act to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

The message also announced that the House being in possession of the official papers, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, shall be, and they are hereby, discharged to the end that H.R. 2660 and its accompanying papers, be, and they are hereby, laid on the table.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 265. An act to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2912. An act to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government; to the Committee on Indian Affairs.

H.R. 4060. An act to amend the Peace Corps Act to establish an Ombudsman and an Office of Safety and Security of the Peace Corps, and for other purposes; to the Committee on Foreign Relations.

H.R. 4317. An act to name the Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, as the ''Charles Wilson Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 295. Concurrent resolution congratulating and saluting Focus: HOPE on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States; to the Committee on the Judiciary.

H. Con. Res. 417. Concurrent resolution honoring the Tuskegee Airmen and their contribution in creating an integrated United States Air Force, the world's foremost Air and Space Supremacy Force; to the Committee on Armed Services.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 2, 2004, she had presented to the President of the United States the following enrolled bill:

S. 2092. An act to assist the participation of Taiwan in the World Health Organization.

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–7704. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form; Response to Appeals'' (RIN2137–AD21) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7705. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices'' (RIN2130–AB52) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7706. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Merchant Marine Training'' (RIN2133–AB60) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7707. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (Including 2 Regulations): [CGD08–04–021], [CGD01–04–036]'' (RIN1625–AA09) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7708. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Chincoteague Channel, Chincoteague, VA [CGD05–03–168]'' (RIN1625–AA09) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7709. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: [CGD111–04–001], San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacremento River, San Joaquin River, and Connecting Waters, California'' (RIN1625–AA11) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7710. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Regatta and Marine

Parade Regulation; Special Local Reg.: Naticoke River, Sharptown, MD'' (RIN1625–AA08) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7711. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (Including 5 Regulations): [CGD05–04–057], [COTP Savannah 04–040], [CGD13–04–022], [COTP Savannah 04–041], [CGD05–98–043]'' (RIN1625–AA00) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7712. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (Including 7 Regulations): [COTP San Francisco Bay 04–010], [COTP San Juan 04–044], [CGD09–04–016], [COTP Southeast Alaska 04–001], [CGD13–04–020], [COTP Prince William Sound 04–001], [CGD09–04–009]'' (RIN1625–AA00) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7713. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''General Order Implementing Syria Accountability and Lebanese Sovereignty Act of 2003'' (RIN0694–AC99) received on * * *, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7714. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Magnuson Act Provisions; Foreign Fishing; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications; Pacific Whiting'' (RIN0648–AR54) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7715. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Final Rule; Annual Management Measures and Sport Fishing Regulations for Area 2A Pacific Halibut Fisheries; and Changes to the Catch Sharing Plan'' (RIN0648–AQ67) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7716. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments'' (ID041904C) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7717. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Amendment 21 to the Fishery Management Plan for Reef Fish Resources in the Gulf of Mexico'' (RIN0648–AR66) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7718. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Rule to Implement Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska'' (RIN0648–AQ98) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7719. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Amendment 13 to the Northeast Multispecies Fishery Management Plan'' (RIN0648–AN17) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7720. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary and Director General, International Trade Administration, Department of Commerce, received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7721. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of a nomination and change in previously submitted reported information for the position of Under Secretary and Director, Patent and Trademark Office, Department of Commerce, received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7722. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of a vacancy and change in previously submitted reported information for the position of Assistant Secretary for Trade Development, Department of Commerce, received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7723. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closing Directed Fishing for Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7724. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closing Directed Fishing for Pacific Cod by Catcher Processor Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area (BSAI)'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7725. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Rock Sole Fishing in Bering Sea and Aleutian Islands Management Area'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7726. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod to Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7727. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Reopening Directed Fishing for Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area (BSAI) for 72 Hours'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7728. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Reallocation of Projected Unused Amount of Pacific Cod From Vessels Using Jig Gear to Catcher Vessels Less Than 60′ Using Pot or Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7729. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closing Directed Fishing for Species in Rock Sole/Flathead Sole/Other Flatfish Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7730. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16–2'' (RIN0648–AR35) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7731. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Regulatory Amendment to Modify Seafood Dealer Reporting Requirements'' (RIN0648–AR79) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7732. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Pelagic Longline Fishing Restrictions, Seasonal Area Closure, Limit on Swordfish Fishing Effort, Gear Restrictions, and Other Sea Turtle Take Mitigation Measures'' (RIN0648–AR84) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7733. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of the Commercial Hook-and-Line Fishery for Gulf Group King Mackerel in the Southern Florida West Coast Subzone'' received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7734. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Monkfish Fishery; Final Rule to Implement Target Total Allowable Catch Levels, Trip Limits, and Days-at-Sea Restrictions for the 2004 Monkfish Fishery'' (RIN0648–AR89) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7735. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Alaska Plaice in the Bering Sea and Aleutian Islands Management Area (BSAI)'' received on June 1, 2004; to the

Committee on Commerce, Science, and Transportation.

EC–7736. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Revise the Descriptions of Gulf of Alaska (GOA) Reporting Areas 620 and 630 in Paragraph b of Figure 3 to 50 CFR Part 679 to Include the Entire Alitak/Olga/Deadman's/Portage Bay Complex of Kodiak Island Within Reporting Area 620'' (RIN0648–AR08) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7737. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area; Modification of a Closure'' (ID032404E) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7738. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Tilefish Fishery; Final Rule for Reinstatement of Permit Requirements for the Tilefish Fishery'' (RIN0648–AR75) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7739. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement the 2004 Specifications for the Spiny Dogfish Fishery'' (RIN0648–AQ81) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

*David Safavian, of Michigan, to be Administrator for Federal Procurement Policy.

*Albert Casey, of Texas, to be a Governor of the United States Postal Service for a term expiring December 8, 2009.

*James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010.

*Dawn A. Tisdale, of Texas, to be a Commissioner of the Postal Rate Commission for a term expiring November 22, 2006.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DAYTON:

S. 2487. A bill to amend part D of title XVIII of the Social Security Act to ensure that every medicare beneficiary has access to a medicare administered prescription drug plan option, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. HOLLINGS, and Ms. CANTWELL):

S. 2488. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. GREGG, Ms. SNOWE, and Mr. LOTT):

S. 2489. A bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 2490. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. 2491. A bill to amend the Public Health Service Act to promote and improve the allied health professions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CONRAD:

S. 2492. A bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. SMITH, Ms. COLLINS, Mr. COLEMAN, Mr. SESSIONS, Mr. LOTT, and Mr. ENZI):

S. 2493. A bill to amend the Federal Food, Drug, and Cosmetic Act to protect the public health from the unsafe importation of prescription drugs and from counterfeit prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 369. A resolution expressing the sense of the Senate in honoring the service of the men and women who served in the Armed Forces of the United States during World War II; considered and agreed to.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 684

At the request of Mr. SMITH, the name of the Senator from Vermont (Mr. LEAHY) 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. 851

At the request of Mr. ENSIGN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 851, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1010

At the request of Mr. HARKIN, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1272

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1272, a bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) 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. 1379

At the request of Mr. JOHNSON, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1393

At the request of Mr. HARKIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1393, a bill to amend the Richard B. Russell National School Lunch Act to reauthorize and expand the fruit and vegetable pilot program.

S. 1411

At the request of Mr. DODD, his name was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1457

At the request of Mr. BUNNING, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1457, a bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on distilled spirits on its pre-1985 level.

S. 2000

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2000, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 2038

At the request of Mr. BAYH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2038, a bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 2175

At the request of Mr. DODD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2283

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) 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 name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S . 2283, supra.

S. 2318

At the request of Ms. COLLINS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2318, a bill to expand upon the Department of Defense Energy Efficiency Program required by section 317 of the National Defense Authorization Act of 2002 by authorizing the Secretary of Defense to enter into energy savings performance contracts, and for other purposes.

S. 2363

At the request of Mr. LEAHY, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from New York (Mr. SCHUMER) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 2363, supra.

S. 2384

At the request of Mr. BOND, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2384, a bill to amend the Small Business Act to permit business concerns that are owned by venture capital operating companies or pension plans to participate in the Small Business Innovation Research Program.

S. 2425

At the request of Mr. BYRD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2438

At the request of Ms. COLLINS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2438, a bill to amend title 31, United States Code, to provide Federal Government employees with bid protest rights in actions under Office of Management and Budget Circular A-76, and for other purposes.

S. 2473

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2473, a bill to require payment of appropriated funds that are illegally disbursed for political purposes by the Centers for Medicare and Medicaid Services.

S. CON. RES. 106

At the request of Mr. CAMPBELL, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Con. Res. 106, a concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

S. CON. RES. 110

At the request of Mr. CAMPBELL, the names of the Senator from New York (Mrs. CLINTON), the Senator from Kansas (Mr. BROWNBACK) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. Con. Res. 110, a concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

AMENDMENT NO. 3234

At the request of Mr. NELSON of Florida, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3234 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3242

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 3242 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3245

At the request of Mrs. DOLE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 3245 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. HOLLINGS, and Ms. CANTWELL):

S. 2488. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, I rise today to introduce the Marine Debris Research and Reduction Act. From the shore, our oceans seem vast and limitless, but I fear that we often overlook the impacts our actions have on the sea and its resources. The Act that I am introducing today with my friends and colleagues, Senators TED STEVENS, FRITZ HOLLINGS, and MARIA CANTWELL focuses on one particular impact that goes unnoticed by many: marine debris.

In a high-tech era of radiation, carcinogenic chemicals, and human-induced climate change, the problem of the trash produced by ocean-going vessels and dumped at sea must seem old-fashioned by comparison. Sea garbage would seem to be a simple issue that surely cannot rise to the priority level of the stresses our 21st century civilization places on the natural environment.

Regrettably, that perception is wrong. While marine debris includes conventional ''trash,'' it also includes a vast array of additional materials. It is discarded fishing nets and gear. It is cargo washed overboard. It is abandoned equipment from our commercial fleets. Nor does the ''low-tech'' nature of solid refuse diminish its deadly impact on the creatures of the sea. Dead is dead—whether an animal dies from an immune system weakened by toxic chemicals, or drowns entangled in a discarded fishing net.

Global warming, disease, and toxic contamination of our seas has already stressed these fragile ecosystems. These threats have been described in the draft report of the U.S. Commission on Ocean Policy, which also dedicated an entire chapter to the threats posed by marine debris. The bill we introduce today adopts the measures recommended by the Commission to help remove man-made marine debris from the list of ocean threats. It also follows the recommendations of the International Marine Debris Conference held in my home State of Hawaii in 2000.

The bill establishes a Marine Debris Prevention and Removal Program within the National Oceanic and Atmospheric Administration, NOAA, directs the U.S. Coast Guard to improve enforcement of laws designed to prevent ship-based pollution from plastics and other garbage, re-invigorates an interagency committee on marine debris, and improves our research and information on marine debris sources, threats, and prevention.

In Hawaii, we are able to see the impacts of marine debris more clearly than most because of the convergence caused by the North Pacific Tropical High. Atmospheric forces cause ocean surface currents to converge on Hawaii, bringing with them the vast amount of debris floating throughout the Pacific. In 2003 alone, 122 tons of debris were removed from coral reefs in the Northwestern Hawaiian Islands, which is also home to many endangered marine species.

I am pleased that the coordinated approach taken to address the threats posed by marine debris in the Northwestern Hawaiian Islands has provided a model for the Nation. NOAA's Pacific Islands Region Fisheries Science Center is leading this interagency partnership, which also includes the U.S. Fish and Wildlife Service, Hawaii's business and university communities, and conservation groups. Not only have we removed debris that poses harm to endangered species, but with the help of donated services, we have recycled the abandoned nets into energy to power residential homes.

We have learned that our best path to success lies in partnering with one another to share resources, and it is my hope that others may adapt our project to their own shores through the partnership and funding opportunities set forth in this bill. This is why the bill establishes an Interagency Committee on Marine Debris to coordinate marine debris prevention and removal efforts among federal agencies, state governments, universities, and non-governmental organizations.

We must also bear in mind that no matter how zealously we reform our practices, the ultimate solution lies in international cooperation. The oceans connect the coastal nations of the world, and we must work together to reduce this increasing threat to our seas and shores. The Marine Debris Research and Reduction Act will provide the United States with the tools to develop effective marine debris prevention and removal programs on a worldwide basis, including reporting and information requirements that will assist in the creation of an international marine debris database.

I hope you will join me in supporting enactment of the Marine Debris Research and Reduction Act. This bill will provide the United States with the programs and resources necessary to protect our most valuable resources, our oceans. 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. 2488

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 ''Marine Debris Research and Reduction Act''.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) The oceans, which comprise nearly three quarters of the Earth's surface, are an important source of food and provide a wealth of other natural products that are important to the economy of the United States and the world.

(2) Ocean and coastal areas are regions of remarkably high biological productivity, are of considerable importance for a variety of recreational and commercial activities, and provide a vital means of transportation.

(3) Ocean and coastal resources are limited and susceptible to change as a direct and indirect result of human activities, and such changes can impact the ability of the ocean to provide the benefits upon which the Nation depends.

(4) Marine debris, including plastics, derelict fishing gear, and a wide variety of other objects, has a harmful and persistent effect on marine flora and fauna and can have adverse impacts on human health and navigation safety.

(5) Marine debris is also a hazard to navigation, putting mariners and rescuers, their vessels, and consequently the marine environment at risk, and can cause economic loss due to entanglement of vessel systems.

(6) Modern plastic materials persist for decades in the marine environment and therefore pose the greatest potential for long-term damage to the marine environment.

(7) Lack of knowledge and data on the source, movement, and effects of plastics and other marine debris in marine ecosystems has hampered efforts to develop effective approaches for addressing marine debris.

(8) Lack of resources, priority attention to this issue, and coordination at the Federal level has undermined the development and implementation of a Federal program to address marine debris, both domestically and internationally.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish programs within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with other Federal and non-Federal entities;

(2) to re-establish the Inter-agency Marine Debris Coordinating Committee to ensure a coordinated government response across Federal agencies;

(3) to develop a Federal information clearinghouse to enable researchers to study the scale and impact of marine debris more efficiently; and

(4) to take appropriate action in the international community to prevent marine debris and reduce concentrations of existing debris on a global scale.

SEC. 3. NOAA MARINE DEBRIS PREVENTION AND REMOVAL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety.

(b) PROGRAM COMPONENTS.—Through the Program, the Under Secretary for Oceans and Atmosphere (Under Secretary) shall carry out the following activities:

(1) MAPPING, IDENTIFICATION, IMPACTS, REMOVAL, AND PREVENTION.—The Under Secretary shall, in consultation with relevant Federal agencies, undertake marine debris mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources (particularly endangered or protected species) and navigation safety, including—

(A) the establishment of a process for cataloguing and maintaining an inventory of marine debris and its impacts found in the United States navigable waters and the United States exclusive economic zone, including location, material, size, age, and origin, and impacts on habitat, living marine resources, human health, and navigation safety;

(B) measures to identify the origin, location, and projected movement of marine debris within the United States navigable waters and the United States exclusive economic zone, including the use of oceanographic, atmospheric, satellite, and remote sensing data; and

(C) development and implementation of strategies, methods, priorities, and a plan, for removing marine debris from United States navigable waters and within the United States exclusive economic zone, including development of local or regional protocols for removal of derelict fishing gear.

(2) REDUCING AND PREVENTING LOSS OF GEAR.—The Under Secretary shall improve efforts and actively seek to prevent and reduce commercial fishing gear losses, as well as to reduce adverse impacts of such gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment, and methods for marking gear used in specific fisheries to enhance the tracking and identification of lost gear; and

(B) development of voluntary or mandatory management measures to reduce the loss and discard of commercial fishing gear, such as incentive programs, observer programs, toll-free reporting hotlines, and computer-based notification forms.

(3) OUTREACH.—The Under Secretary shall undertake outreach and education of stakeholders, including the fishing, gear manufacturers, and other marine-dependent industries, on threats associated with marine debris and approaches to identify, prevent, mitigate, monitor, and remove marine debris, including outreach and education activities through public-private initiatives. The Under Secretary shall coordinate outreach and education activities under this paragraph with any outreach programs conducted under section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915).

(c) GRANTS.—

(1) IN GENERAL.—The Under Secretary shall provide financial assistance, in the form of grants, through the Program for projects to accomplish the purposes of this Act.

(2) 50 PERCENT MATCHING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), Federal funds for any project under this section may not exceed 50 percent of the total cost of such project. For purposes of this subparagraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(B) WAIVER.—The Under Secretary may waive all or part of the matching requirement under subparagraph (A) if the Under Secretary determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs the public interest in such matching requirement.

(3) AMOUNTS PAID AND SERVICES RENDERED UNDER CONSENT.—

(A) CONSENT DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

(B) OTHER DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may not include any money paid pursuant to, or the value of any in-kind service performed under, any other administrative order or court order.

(4) ELIGIBILITY.—Any natural resource management authority of a State or other government authority whose activities directly or indirectly affect research or regulation of marine debris, and any educational or nongovernmental institutions with demonstrated expertise in a field related to marine debris, are eligible to submit to the Under Secretary a marine debris proposal under the grant program.

(5) GRANT CRITERIA AND GUIDELINES.—Within 180 days after the date of enactment of this Act, the Under Secretary shall promulgate necessary guidelines for implementation of the grant program, including development of criteria and priorities for grants. In developing those guidelines, the Under Secretary shall consult with—

(A) the Interagency Marine Debris Committee;

(B) regional fishery management councils established under the Magnuson- Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(C) State, regional, and local entities with marine debris experience;

(D) marine-dependent industries; and

(E) non-governmental organizations involved in marine debris research and mitigation activities (including activities regarding commercial fishing gear).

(6) PROJECT REVIEW AND APPROVAL.—The Under Secretary shall review each marine debris project proposal to determine if it meets the grant criteria and supports the goals of the Act. Not later than 120 days after receiving a project proposal under this section, the Under Secretary shall—

(A) provide for external merit-based peer review of the proposal;

(B) after considering any written comments and recommendations based on the review, approve or disapprove the proposal; and

(C) provide written notification of that approval or disapproval to the person who submitted the proposal.

(7) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports as required by the Under Secretary. Each report shall include all information required by the Under Secretary for evaluating the progress and success of the project.

SEC. 4. COAST GUARD PROGRAM.

The Commandant of the Coast Guard shall, in cooperation with the Under Secretary, undertake measures to reduce violations of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to the discard of plastics and other garbage from vessels. The measures shall include—

(1) the development of a strategy to improve monitoring and enforcement of current laws, as well as recommendations for statutory or regulatory changes to improve compliance and for the development of any appropriate amendments to MARPOL;

(2) regulations to improve the implementation of the requirement of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that all United States ports and terminals maintain receptacles for disposing of plastics, including measures to ensure that a sufficient quantity of such facilities exist at all such ports and terminals, requirements for logging the waste received, and for Coast Guard comparison of vessel and port log books to determine compliance;

(3) regulations to require vessels, including fishing vessels under 400 gross tons, entering United States ports to maintain records subject to Coast Guard inspection on the disposal of plastics and other garbage, that, at a minimum, include the time, date, type of garbage, quantity, and location of discharge by latitude and longitude or, if discharged on land, the name of the port where such material is offloaded for disposal;

(4) regulations to require United States fishing vessels to report the loss and recovery of fishing gear and to expand to smaller vessels existing requirements to maintain ship-board receptacles and maintain a ship-board waste management plan, taking into account potential economic impacts, technical feasibility, and other factors;

(5) the development, through outreach to commercial vessel operators and recreational boaters, of a voluntary reporting program, along with the establishment of a central reporting location, for incidents of damage to vessels caused by marine debris, as well as observed violations of existing laws and regulations relating to disposal of plastics and other marine debris; and

(6) a voluntary program encouraging United States flag vessels to inform the Coast Guard of any ports in other countries that lack adequate port reception facilities for garbage.

SEC. 5. INTERAGENCY COORDINATION.

(a) INTERAGENCY MARINE DEBRIS COMMITTEE ESTABLISHED.—There is established an Interagency Committee on Marine Debris to coordinate a comprehensive program of marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, State governments, Indian tribes, and other nations, as appropriate, and to foster cost-effective mechanisms to identify, assess, reduce, and prevent marine debris, including the joint funding of research and mitigation and prevention strategies.

(b) MEMBERSHIP.—The Committee shall include a senior official from—

(1) the National Oceanic and Atmospheric Administration, who shall serve as the chairperson of the Committee;

(2) the United States Coast Guard;

(3) the Environmental Protection Agency;

(4) the United States Navy;

(5) the Maritime Administration of the Department of Transportation;

(6) the National Aeronautics and Space Administration;

(7) the Marine Mammal Commission; and

(8) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

(c) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

(d) REPORTING.—

(1) INTERAGENCY REPORT ON MARINE DEBRIS IMPACTS AND STRATEGIES.—Not later than 12 months after the date of the enactment of this Act, the Committee, through the chairperson, and in cooperation with the coastal States, Indian tribes, local governments, and non-governmental organizations, shall complete and submit to the Congress a report examining the ecological and economic impact of marine debris, alternatives for reducing, mitigating, preventing, and controlling the harmful affects of marine debris, and the social and economic costs and benefits of such alternatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall provide recommendations on—

(A) establishing priority areas for action to address leading problems relating to marine debris;

(B) developing an effective strategy and approaches to reducing, removing, and disposing of marine debris, including through private-public partnerships;

(C) providing appropriate infrastructure for effective implementation and enforcement of measures to prevent and remove marine debris, especially the discard and loss of fishing gear;

(D) establishing effective and coordinated education and outreach activities; and

(E) ensuring Federal cooperation with, and assistance to, the coastal States (as defined in section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4))), Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of marine debris and its adverse impacts.

(3) ANNUAL PROGRESS REPORTS.—Not later than 2 years after the date of the enactment of this Act, and every year thereafter, the Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that evaluates United States and international progress in meeting the purposes of this Act. The report shall include—

(A) the status of implementation of the recommendations of the Committee and analysis of their effectiveness;

(B) a summary of the marine debris inventory to be maintained by the National Oceanic and Atmospheric Administration;

(C) a review of the National Oceanic and Atmospheric Administration program authorized by section 3 of this Act, including projects funded and accomplishments relating to reduction and prevention of marine debris;

(D) a review of United States Coast Guard programs and accomplishments relating to marine debris removal, including enforcement and compliance with MARPOL requirements; and

(E) estimated Federal and non-Federal funding provided for marine debris and recommendations for priority funding needs.

(e) CONFORMING AMENDMENT.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is repealed.

SEC. 6. INTERNATIONAL COOPERATION.

The Interagency Marine Debris Committee shall develop a strategy and pursue in the International Maritime Organization and other appropriate international and regional forums, international action to reduce the incidence of marine debris, including—

(1) the inclusion of effective and enforceable marine debris prevention and removal measures in international and regional agreements, including fisheries agreements and maritime agreements;

(2) measures to strengthen and to improve compliance with MARPOL Annex V;

(3) national reporting and information requirements that will assist in improving information collection, identification and monitoring of marine debris, including plastics and derelict fishing gear;

(4) the establishment of an international database, consistent with the information clearinghouse established under section 7, that will provide current information on location, source, prevention, and removal of marine debris, including fishing gear;

(5) the establishment of public-private partnerships and funding sources for pilot programs that will assist in implementation and compliance with marine debris requirements in international agreements and guidelines;

(6) the identification of possible amendments to and provisions in the International Maritime Organization Guidelines for the Implementation of Annex V of MARPOL for potential inclusion in Annex V; and

(7) when appropriate assist the responsible Federal agency in bilateral negotiations to effectively enforce marine debris prevention.

SEC. 7. FEDERAL INFORMATION CLEARINGHOUSE.

The Under Secretary, in coordination with the Committee, shall maintain a Federal information clearinghouse on marine debris that will be available to researchers and other interested parties to improve source identification, data sharing, and monitoring efforts through collaborative research and open sharing of data. The clearinghouse shall include—

(1) standardized protocols to map locations of commercial fishing and aquaculture activities using Geographic Information System techniques;

(2) a world-wide database which describes fishing gear and equipment, and fishing practices, including information on gear types and specifications;

(3) guidance on the identification of gear fragments; and

(4) the data on mapping and identification of marine debris to be developed pursuant to section 3(b)(1) of this Act.

SEC. 8. DEFINITIONS.

In this Act:

(1) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Oceans and Atmosphere of the Department of Commerce.

(2) COMMITTEE.—The term ''Committee'' means the Interagency Marine Debris Committee established by section 5 of this Act.

(3) UNITED STATES EXCLUSIVE ECONOMIC ZONE.—The term ''United States exclusive economic zone'' means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as ''eastern special areas'' in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

(4) MARPOL; ANNEX V; CONVENTION.—The terms ''MARPOL'', ''Annex 5'', and ''Convention'' have the meaning given those terms in paragraphs (3) and (4) of section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2005—

(1) to the Secretary of Commerce for the purpose of carrying out sections 3 and 7 of this Act, $10,000,000, of which no more than 10 percent may be for administrative costs; and

(2) to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the Coast Guard in carrying out sections 4 and 6 of this Act, $5,000,000, of which no more than 10 percent may be used for administrative costs.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. GREGG, Ms. SNOWE, and Mr. LOTT):

S. 2489. A bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, I rise to introduce the Coastal and Ocean Mapping Integration Act of 2004. I am pleased to be joined by Senators GREGG and HOLLINGS, who are original cosponsors of the bill. The jurisdiction of the United States extends 200 miles beyond its coastline and includes the U.S. Territorial Sea and Exclusive Economic Zone, or ''EEZ.'' Regrettably, nearly 90 percent of this expanse remains unmapped by modern technologies, meaning that we have almost no information about a swath of ocean as large as the terra firma of the entire United States.

There was a time in the history of our Nation when our best efforts to map the seas meant lowering weights tied to piano wire over the side of a vessel, and measuring how deep they went. These efforts led to the development of rudimentary nautical charts designed to help mariners navigate safely. The rapidly increasing uses of our coastal and ocean waters, however, call for development of a new generation of ecosystem-oriented mapping and assessment products and services.

The technologies of today create richly layered mapping products that expand far beyond just charting for safe navigation. Now, by combining such information as mineral surveys of the U.S. Geological Service, habitat characterizations of the National Oceanic Atmospheric Administration (NOAA), and watershed assessments of the Environmental Protection Agency into a single product, map users are able to consider the impacts of their actions on multiple facets of the marine environment.

The recent draft report of the U.S. Commission on Ocean Policy has highlighted the urgent need to modernize, improve, expand, and integrate Federal mapping efforts to improve navigation, safety and resource management decisionmaking. By employing integrated mapping approaches, urban and residential growth can be directed away from areas of high risk from ocean-based threats such as tsunami and tidal surge. The risks of maritime activities can be minimized by identifying hazards that could impact on sensitive ecosystems, and devising appropriate mitigation plans. Living marine resource managers can also gauge where and how best to focus their efforts to restore essential marine habitats.

The bill I am introducing today will lay the foundation for producing the ocean maps of the 21st century. It mandates coordination among the many Federal agencies with mapping missions with NOAA as the lead in developing national mapping priorities and strategies. The bill would also establish national hydrographic centers to manage comprehensively the mapping data produced by the Federal Government, encourage innovation in technologies, and authorize the funding necessary to implement this comprehensive effort.

Perhaps the most important lesson that comprehensive, integrated mapping can afford is an awareness of a web of human marine communities as rich and varied as the ocean itself. From awareness grows understanding, respect, and cooperation. I hope that my colleagues will join me in supporting this measure that will, in turn,

support the development of healthy coastal communities across the nation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2489

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 ''Coastal and Ocean Mapping Integration Act''.

SEC. 2. INTEGRATED COASTAL AND OCEAN MAPPING PROGRAM.

(a) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration shall establish a program to develop, in coordination with the Interagency Committee on Coastal and Ocean Mapping, a coordinated and comprehensive Federal ocean and coastal mapping program for the Great Lakes and Coastal State waters, the territorial sea, the exclusive economic zone, and the continental shelf of the United States that enhances conservation and management of marine resources, improves decision-making regarding research priorities and the siting of research and other platforms, and advances coastal and ocean science.

(b) PROGRAM PARAMETERS.—In developing such a program, the Administrator shall work with the Committee to—

(1) identify all Federal programs conducting shoreline delineation and coastal or ocean mapping, noting geographic coverage, frequency, spatial coverage, resolution, and subject matter focus of the data and location of data archives;

(2) promote cost-effective, cooperative mapping efforts among all Federal coastal and ocean mapping agencies by increasing data sharing, developing data acquisition and metadata standards, and facilitating the interoperability of in situ data collection systems, data processing, archiving, and distribution of data products;

(3) facilitate the adaptation of existing technologies as well as foster expertise in new coastal and ocean mapping technologies by engaging in cooperative training programs and leveraging agency expertise, nongovernmental organizations, and private sector resources to efficiently meet Federal mapping mandates;

(4) develop standards and protocols for testing innovative experimental mapping technologies and transferring new technologies to the private sector;

(5) centrally archive, manage, and distribute data sets as well as provide mapping products and services to the general public in service of statutory requirements; and

(6) develop specific data presentation methods for use by Federal, State, and other entities that document locations of Federally permitted activities, submerged cultural resources, undersea cables, offshore aquaculture projects, and any areas designated for the purposes of environmental protection or conservation and management of living marine resources.

SEC. 3. INTERAGENCY COMMITTEE ON COASTAL AND OCEAN MAPPING.

(a) ESTABLISHMENT.—There is hereby established an Interagency Committee on Coastal and Ocean Mapping.

(b) MEMBERSHIP.—The Committee shall be comprised of senior representatives from Federal agencies with ocean and coastal mapping and surveying responsibilities. The representatives shall be high-ranking officials of their respective agencies or departments and, whenever possible, the head of the portion of the agency or department that is most relevant to the purposes of this Act. Membership shall include senior representatives from the National Oceanic and Atmospheric Administration, the Chief of Naval Operations, the United States Geological Survey, Minerals Management Service, National Science Foundation, National Geospatial-Intelligence Agency, United States Army Corps of Engineers, United States Coast Guard, Environmental Protection Agency, Federal Emergency Management Agency and National Aeronautics and Space Administration, and other appropriate Federal agencies involved in ocean and coastal mapping.

(c) CHAIRMAN.—The Committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full Committee to address issues of short duration.

(d) MEETINGS.—The Committee shall meet on a quarterly basis, but subcommittee or working group meetings shall meet on an as-needed basis.

(e) COORDINATION.—The committee should coordinate activities, when appropriate, with other Federal efforts, including the Digital Coast, Geospatial One-Stop, and the Federal Geographic Data Committee.

SEC. 4. NOAA INTEGRATED MAPPING INITIATIVE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Committee, shall develop and submit to the Congress a plan for an integrated coastal and ocean mapping initiative within the National Oceanic and Atmospheric Administration.

(b) PLAN REQUIREMENTS.—The plan shall—

(1) identify and describe all coastal and ocean mapping programs within the agency, including those that conduct mapping or related activities in the course of existing missions, such as hydrographic surveys, ocean exploration projects, living marine resource conservation and management programs, coastal zone management projects, and coastal and ocean science projects;

(2) establish geographic priorities and minimum data acquisition and metadata standards for those programs;

(3) encourage the development of innovative coastal and ocean mapping technologies and applications through research and development cooperative agreements at joint institutes;

(4) document available and developing technologies, best practices in data processing and distribution, and leveraging opportunities with other Federal agencies, nongovernmental organizations, and the private sector;

(5) identify training, technology, and other resource requirements for enabling the National Oceanic and Atmospheric Administration's programs, ships, and aircraft to support a coordinated coastal and ocean mapping program;

(5) identify a centralized mechanism for coordinating data collection, processing, archiving, and dissemination activities of all such mapping programs within the National Oceanic and Atmospheric Administration, including—

(A) designating primary data processing centers to maximize efficiency in information technology investment, develop consistency in data processing, and meet Federal mandates for data accessibility; and

(B) designating a repository that is responsible for archiving and managing the distribution of all coastal and ocean mapping data to simplify the provision of services to benefit Federal and State programs; and

(6) set forth a timetable for implementation and completion of the plan, including a schedule for periodic Congressional progress reports, and recommendations for integrating approaches developed under the initiative into the interagency program.

(c) NOAA JOINT HYDROGRAPHIC CENTERS.—The Secretary is authorized to maintain and operate up to 3 joint hydrographic centers, which shall be co-located with an institution of higher education. The centers shall serve as hydrographic centers of excellence and are authorized to conduct activities necessary to carry out the purposes of this Act, including—

(1) research and development of innovative coastal and ocean mapping technologies, equipment, and data products;

(2) mapping of the United States outer continental shelf;

(3) data processing for non-traditional data and uses;

(4) advancing the use of remote sensing technologies, for related issues, including mapping and assessment of essential fish habitat and of coral resources, ocean observations and ocean exploration; and

(5) providing graduate education in hydrographic sciences for National Oceanic and Atmospheric Administration Commissioned Officer Corps and civilian personnel.

SEC. 5. INTERAGENCY PROGRAM REPORTING.

No later than 18 months after the date of enactment of this Act, and bi-annually thereafter, the Chairman of the Committee shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources a report detailing progress made in implementing the provisions of this Act, including—

(1) an inventory of data within the territorial seas and the exclusive economic zone and throughout the continental shelf of the United States, noting the age and source of the survey and the spatial resolution (metadata) of the data;

(2) identification of priority areas in need of survey coverage using present technologies;

(3) a resource plan that identifies when priority areas in need of modern coastal and ocean mapping surveys can be accomplished;

(4) the status of efforts to produce integrated digital maps of coastal and ocean areas;

(5) a description of any products resulting from coordinated mapping efforts under this Act that improve public understanding of the coasts, oceans, or regulatory decision-making;

(6) documentation of minimum and desired standards for data acquisition and integrated metadata;

(7) a statement of the status of Federal efforts to leverage mapping technologies, coordinate mapping activities, share expertise, and exchange data;

(8) a statement of resource requirements for organizations to meet the goals of the program, including technology needs for data acquisition, processing and distribution systems;

(9) a statement of the status of efforts to declassify data gathered by the Navy, the National Geospatial-Intelligence Agency and other agencies to the extent possible without jeopardizing national security, and make it available to partner agencies and the public; and

(10) a resource plan for a digital coast integrated mapping pilot project for the northern Gulf of Mexico that will—

(A) cover the area from the authorized coastal counties through the territorial sea; and

(B) identify how such a pilot project will leverage public and private mapping data and resources, such as the United States Geological Survey National Map, to result in an operational coastal change assessment program for the subregion.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to the amounts authorized by section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), there are authorized to be appropriated to the Administrator to carry out this Act—

(1) $20,000,000 for fiscal year 2005;

(2) $26,000,000 for fiscal year 2006;

(3) $32,000,000 for fiscal year 2007;

(4) $38,000,000 for fiscal year 2008; and

(5) $45,000,000 for each of fiscal years 2009 through 2012.

(b) JOINT HYDROGRAPHIC CENTERS.—Of the amounts appropriated pursuant to subsection (a), the following amounts shall be used to carry out section 4(c) of this Act:

(1) $10,000,000 for fiscal year 2005.

(2) $11,000,000 for fiscal year 2006.

(3) $12,000,000 for fiscal year 2006.

(4) $13,000,000 for fiscal year 2006.

(5) $15,000,000 for each of fiscal years 2009 through 2012.

SEC. 7. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) COMMITTEE.—The term ''Committee'' means the Interagency Ocean Mapping Committee established by section 3.

(3) EXCLUSIVE ECONOMIC ZONE.—The term ''exclusive economic zone'' means the exclusive economic zone of the United States established by Presidential Proclamation No. 5030, of March 10, 1983.

(4) OCEAN AND COASTAL MAPPING.—The term ''ocean and coastal mapping'' means the collection of physical, biological, geological, chemical, and archaeological characteristics of ocean and coastal sea beds through the use of acoustics, satellites, aerial photogrammetry, light and imaging, and direct sampling.

(5) TERRITORIAL SEA.—The term ''territorial sea'' means the belt of sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 2490. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, I rise today to introduce the Ballast Water Management Act of 2004. I am joined by my friend and colleague, Senator TED STEVENS. For some time, we have recognized the impacts of land-based invasive species. In Hawaii, the impacts of such alien species on native species have been among the most significant in the country.

While not as visible, invasive species pose an equally great threat. One of the major ways that aquatic invasives make their way around the globe is through the ballast water used by vessels.

Modern maritime commerce depends on ships stabilized by the uptake and discharge of huge volumes of ocean water for ballast. Regrettably, ships do not transport such water alone—but also the plants and animals, as well as human diseases such as cholera, that it contains. An estimated 10,000 aquatic organisms travel around the globe each day in the ballast water of cargo vessels. Over 2 billion gallons of ballast water are discharged into waters of the United States each year.

From the zebra mussel fouling the facilities and shores of the Great Lakes, to the noxious algae that choke the coral reefs of Hawaii, aquatic invasive species pose a serious threat to delicate marine ecosystems and human health. The economic costs are also staggering—the direct and indirect costs of aquatic invasive species to the economy of the United States amount to billions of dollars each year.

We must find an effective solution to this problem, while at the same time ensuring that our maritime industry can continue to operate in a cost-effective manner. We will need to rely on the steady collaborative efforts of industry, science, government, and coastal communities as we move forward.

The bill I introduce today lays the foundation for such progress. It establishes standards for ballast water treatment that will be effective but on a schedule that our maritime fleet can realistically achieve. It recognizes safety as a paramount concern, and allows flexibility in ballast exchange practices to safeguard vessels and their passengers and crew. Looking to the future, my bill will also encourage the development and adoption of new ballast water treatment technologies, as well as innovative technologies to address other vessel sources of invasives such as hull fouling, through a grant program.

The bill closely tracks and is consistent with an agreement recently negotiated in the International Maritime Organization. It would phase-in ballast water treatment requirements on the same schedule as that adopted by the IMO agreement, and require ballast water exchange to be used until treatment systems are in place. Importantly, the international agreement includes a provision assuring that parties can adopt more stringent measures than those included in the agreement. This provision was sought by the United States and is important to assure the sovereignty of nations in addressing their needs while striving for international cooperation. In light of this provision, the bill includes a standard for treatment that is more effective than that adopted by the international community to ensure that the impacts in the United States are adequately prevented.

I hope that my colleagues will join me in supporting this bill. 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. 2490

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 ''Ballast Water Management Act of 2004''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The introduction of aquatic invasive species into the Nation's waters is one of the most urgent issues facing the marine environment in the United States.

(2) The direct and indirect costs of aquatic invasive species to the economy of the United States amount to billions of dollars per year.

(3) Invasive species are thought to have been involved in 70 percent of the last century's extinctions of native aquatic species.

(4) Invasive aquatic species are a significant problem in all regions of the United States, including Hawaii, Alaska, San Francisco Bay, the Great Lakes, the Southeast, and the Chesapeake Bay.

(5) Ballast water from ships is one of the largest pathways for the introduction and spread of aquatic invasive species.

(6) It has been estimated that some 10,000 non-indigenous aquatic organisms travel around the globe each day in the ballast water of cargo ships.

(7) Over 2 billion gallons of ballast water are discharged in United States waters each year. Ballast water may be the source of the largest volume of foreign organisms released on a daily basis into American ecosystems.

(8) Ballast water has been found to transport not only invasive plants and animals but human diseases as well, such as cholera.

(9) Invasive aquatic species may originate in other countries, or from distinct regions in the United States.

(10) An average of 72 percent of all fish species introduced in the Southeast have become established, many of which are native to the United States but transplanted outside their native ranges.

(11) The introduction of non-indigenous species has been closely correlated with the disappearance of indigenous species in Hawaii and other islands.

(12) Despite the efforts of more than 20 State, Federal, and private agencies, unwanted alien pests are entering Hawaii at an alarming rate——about 2 million times more rapid than the natural rate.

(13) Current Federal programs are insufficient to effectively address this growing problem.

(14) Preventing aquatic invasive species from being introduced is the most cost-effective approach for addressing this issue, because once established, they are costly and sometimes impossible to control.

SEC. 3. BALLAST WATER MANAGEMENT.

(a) IN GENERAL.—Section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711) is amended to read as follows:

''SEC. 1101. BALLAST WATER MANAGEMENT.

''(a) VESSELS TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section applies to a vessel that is designed or constructed to carry ballast water; and

''(A) is a vessel of the United States (as defined in section 2101(46) of title 46, United States Code); or

''(B) is a foreign vessel that is en route to, or has departed from, a United States port.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), this section does not apply to—

''(A) permanent ballast water in a sealed tank on a vessel that is not subject to discharge;

''(B) a vessel of the Armed Forces; or

''(C) a vessel, or category of vessels, exempted by the Secretary under paragraph (4).

''(3) STANDARDS FOR VESSELS OF THE ARMED FORCES.—With respect to a vessel of the Armed Forces that is designed or constructed to carry ballast water, the Secretary of Defense, after consultation with the Administrator of the Environmental Protection Agency and the Secretary, shall promulgate ballast water and sediment management standards for such vessels that, so far as is reasonable and practicable, achieve environmental results that are comparable to those achieved by the requirements of this section in waters subject to the jurisdiction of the United States. In promulgating those standards, the Secretary of Defense may take into account the standards promulgated for such vessels under section 312 of the Clean Water Act (33 U.S.C. 1322) to the extent that compliance with those standards would meet the requirements of this Act.

''(4) VESSEL EXEMPTIONS BY SECRETARY.—The Secretary may exempt a vessel, or category of vessels, from the application of this section if the Secretary determines, after consultation with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, that ballast water discharge from the vessel or category of vessels will not have an adverse impact (as defined in section 1003(1) of this Act), based on factors including the origin and destination of the voyages undertaken by such vessel or category of vessels.

''(5) COAST GUARD ASSESSMENT AND REPORT.—Within 180 days after the date of enactment of the Ballast Water Management Act of 2004, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

''(A) an assessment of the magnitude of ballast water operations from vessels designed or constructed to carry ballast water that are not described in paragraph (1) that are transiting waters subject to the jurisdiction of the United States; and

''(B) recommendations, including legislative recommendations if appropriate, of options for addressing such ballast water operations.

''(b) UPTAKE AND DISCHARGE OF BALLAST WATER AND SEDIMENT.—

''(1) PROHIBITION.—Except as provided in this section, no person may uptake or discharge ballast water and sediment from a vessel to which this section applies into waters subject to the jurisdiction of the United States.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the uptake or discharge of ballast water and sediment in the following circumstances:

''(A) The uptake or discharge is solely for the purpose of—

''(i) ensuring the safety of vessel in an emergency situation; or

''(ii) saving a life at sea.

''(B) The uptake or discharge is accidental and the result of damage to the vessel or its equipment and—

''(i) all reasonable precautions to prevent or minimize ballast water and sediment discharge have been taken before and after the damage occurs, the discovery of the damage, and the discharge; and

''(ii) the owner or officer in charge of the vessel did not willfully or recklessly cause the damage.

''(C) The uptake or discharge is solely for the purpose of avoiding or minimizing the discharge of pollution from the vessel.

''(D) The uptake and subsequent discharge on the high seas of the same ballast water and sediment.

''(E) The uptake or discharge of ballast water and sediment occurs at the same location where the whole of the ballast water and sediment that is discharged was taken up and there is no mixing with unmanaged ballast water and sediment from another area.

''(3) SPECIAL RULE FOR UNITED STATES FLAG VESSELS.—For a vessel described in subsection (a)(1)(A), paragraph (1) of this subsection shall be applied without regard to whether the uptake or discharge occurs in waters subject to the jurisdiction of the United States.

''(4) SPECIAL RULE FOR THE GREAT LAKES.—Paragraph (2) does not apply to a vessel subject to the regulations under subsection (e)(2) until the vessel is required to conduct ballast water treatment in accordance with subsection (f) of this section.

''(c) VESSEL BALLAST WATER MANAGEMENT PLAN.—

''(1) IN GENERAL.—A vessel to which this section applies shall conduct all its ballast water management operations in accordance with a ballast water management plan that—

''(A) meets the requirements prescribed by the Secretary by regulation; and

''(B) is approved by the Secretary.

''(2) APPROVAL CRITERIA.—The Secretary may not approve a ballast water management plan unless the Secretary determines that the plan—

''(A) describes in detail safety procedures for the vessel and crew associated with ballast water management;

''(B) describes in detail the actions to be taken to implement the ballast water management requirements established under this section;

''(C) describes in detail procedures for disposal of sediment at sea and on shore;

''(D) designates the officer on board the vessel in charge of ensuring that the plan is properly implemented;

''(E) contains the reporting requirements for vessels established under this section; and

''(F) meets all other requirements prescribed by the Secretary.

''(3) COPY OF PLAN ON BOARD VESSEL.—The owner or operator of a vessel to which this section applies shall maintain a copy of the vessel's ballast water management plan on board at all times.

''(d) VESSEL BALLAST WATER RECORD BOOK.—

''(1) IN GENERAL.—The owner or operator of a vessel to which this section applies shall maintain a ballast water record book on board the vessel in which—

''(A) each operation involving ballast water is fully recorded without delay, in accordance with regulations promulgated by the Secretary; and

''(B) each such operation is described in detail, including the location and circumstances of, and the reason for, the operation.

''(2) AVAILABILITY.—The ballast water record book—

''(A) shall be kept readily available for examination by the Secretary at all reasonable times; and

''(B) notwithstanding paragraph (1), may be kept on the towing vessel in the case of an unmanned vessel under tow.

''(3) RETENTION PERIOD.—The ballast water record book shall be retained—

''(A) on board the vessel for a period of 2 years after the date on which the last entry in the book is made; and

''(B) under the control of the vessel's owner for an additional period of 3 years.

''(4) REGULATIONS.—In the regulations prescribed under this section, the Secretary shall require, at a minimum, that—

''(A) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded; and

''(B) each completed page in the ballast water record book be signed and dated by the master of the vessel.

''(5) ALTERNATIVE MEANS OF RECORDKEEPING.—The Secretary may provide by regulation for alternative methods of recordkeeping, including electronic recordkeeping, to comply with the requirements of this subsection.

''(e) BALLAST WATER EXCHANGE REQUIREMENTS.—

''(1) IN GENERAL.—Until a vessel conducts ballast water treatment in accordance with the requirements of subsection (f) of this section, the operator of a vessel to which this section applies may not conduct the uptake or discharge of ballast water unless the operator conducts ballast water exchange, in accordance with regulations prescribed by the Secretary, in a manner that results in an efficiency of at least 95 percent volumetric exchange of the ballast water for each ballast water tank.

''(2) SPECIAL RULE FOR VESSELS IN THE GREAT LAKES.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, under regulations prescribed by the Secretary to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels, all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone shall—

''(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes; or

''(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1).

''(B) ADDITIONAL MATTERS COVERED BY THE REGULATIONS.—The regulations shall—

''(i) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(ii) provide for sampling procedures to monitor compliance with the requirements of the regulations;

''(iii) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

''(iv) protect the safety of—

''(I) each vessel; and

''(II) the crew and passengers of each vessel;

''(v) take into consideration different operating conditions; and

''(vi) be based on the best scientific information available.

''(C) HUDSON RIVER PORT.—The regulations under this paragraph also apply to vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

''(D) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance

with the regulations issued under this paragraph.

''(3) EXCHANGE AREAS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), the operator of a vessel to which this section applies shall conduct ballast water exchange in accordance with regulations prescribed by the Secretary—

''(i) at least 200 nautical miles from the nearest land; and

''(ii) in water at least 200 meters in depth.

''(B) MINIMUM DISTANCE AND DEPTH.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), if the operator of a vessel is unable to conduct ballast water exchange in accordance with subparagraph (A), the ballast water exchange shall be conducted in water that is—

''(I) as far as possible from land;

''(II) at least 50 nautical miles from land; and

''(III) in water of at least 200 meters in depth.

''(ii) LIMITATION.—The operator of a vessel may not conduct ballast water exchange in accordance with clause (i) in any area with respect to which the Secretary has determined, after consultation with the Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, that ballast water exchange in the area will have an adverse impact, notwithstanding the fact that the area meets the distance and depth criteria of clause (i).

''(C) EXCHANGE IN DESIGNATED AREA.—

''(i) IN GENERAL.—If the operator of a vessel is unable to conduct ballast water exchange in accordance with subparagraph (B), the operator of the vessel may conduct ballast water exchange in an area that does not meet the distance and depth criteria of subparagraph (B) in such areas as may be designated by the Administrator of the National Oceanic and Atmospheric Administration, determined in consultation with the Secretary and the Administrator of the Environmental Protection Agency, for that purpose.

''(ii) CHARTING.—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Secretary, shall designate such areas on nautical charts.

''(iii) LIMITATION.—The Administrator may not designate an area under clause (i) if a ballast water exchange in that area could have an adverse impact, as determined by the Secretary in consultation with the Administrator of the Environmental Protection Agency.

''(D) SAFETY OR STABILITY EXCEPTION.—

''(i) IN GENERAL.—Subparagraphs (A), (B), and (C) do not apply to the discharge or uptake of ballast water if the master of a vessel determines that compliance with subparagraph (A), (B), or (C), whichever applies, would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, ship design or stress, equipment failure, or any other relevant condition.

''(ii) NOTIFICATION REQUIRED.—Whenever the master of a vessel conducts a ballast water discharge or uptake under the exception described in clause (i), the master of the vessel shall notify the Secretary as soon as practicable thereafter but no later than 24 hours after the ballast water discharge or uptake commenced.

''(iii) LIMITATION ON VOLUME.—The volume of any ballast water taken up or discharged under the exception described in clause (i) may not exceed the volume necessary to ensure the safe operation of the vessel.

''(iv) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge or uptake under the exception described in clause (i) on more than 2 out of 6 sequential voyages, the Secretary shall review the circumstances to determine whether those ballast water discharges or uptakes met the requirements of this subparagraph. The review under this clause shall be in addition to any other enforcement activity by the Secretary.

''(E) INABILITY TO COMPLY WITH EXCHANGE AREA REQUIREMENTS.—

''(i) DEVIATION OR DELAY OF VOYAGE.—In determining the ability of the operator of a vessel to conduct ballast water exchange in accordance with the requirements of subparagraph (A) or (B), a vessel is not required to deviate from its intended voyage or unduly delay its voyage to comply with those requirements.

''(ii) PARTIAL COMPLIANCE.—An operator of a vessel that is unable to comply fully with the requirements of subparagraph (A) or (B), shall conduct ballast water exchange to the maximum extent feasible in compliance with those subparagraphs.

''(F) SPECIAL RULE FOR THE GREAT LAKES.—This paragraph does not apply to vessels subject to the regulations under paragraph (2).

''(f) BALLAST WATER TREATMENT REQUIREMENTS.—

''(1) IN GENERAL.—Subject to the implementation schedule in paragraph (3), before discharging ballast water in waters subject to the jurisdiction of the United States a vessel to which this section applies shall conduct ballast water treatment so that the ballast water discharged will contain—

''(A) less than 0.1 living organisms per cubic meter that are 50 or more micrometers in minimum dimension;

''(B) less than 0.1 living organisms per milliliter that are less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension;

''(C) concentrations of indicator microbes that are less than—

''(i) 1 colony-forming unit of Toxicogenic vibrio cholera (O1 and O139) per 100 milliliters, or less than 1 colony-forming unit of that microbe per gram of wet weight of zoological samples;

''(ii) 126 colony-forming units of escherichi coli per 100 milliliters; and

''(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters; and

''(D) concentrations of such indicator microbes as may be specified in regulations promulgated by the Secretary that are less than the amount specified in those regulations.

''(2) RECEPTION FACILITY EXCEPTION.—Paragraph (1) does not apply to a vessel that discharges ballast water into a reception facility that meets standards prescribed by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, for the reception of ballast water that provide for the reception of ballast water and its disposal or treatment in a way that does not impair or damage the environment, human health, property, or resources. The Secretary may not prescribe such standards that are less stringent than any otherwise applicable Federal, State, or local law requirements.

''(3) IMPLEMENTATION SCHEDULE.—Paragraph (1) applies to vessels in accordance with the following schedule:

''(A) FIRST PHASE.—Beginning January 1, 2009, for vessels constructed on or after that date with a ballast water capacity of less than 5,000 cubic meters.

''(B) SECOND PHASE.—Beginning January 1, 2012, for vessels constructed on or after that date with a ballast water capacity of 5,000 cubic meters or more.

''(C) THIRD PHASE.—Beginning January 1, 2014, for vessels constructed before January 1, 2009, with a ballast water capacity of 1,500 cubic meters or more but not more than 5,000 cubic meters.

''(D) FOURTH PHASE.—Beginning January 1, 2016, for vessels constructed—

''(i) before January 1, 2009, with a ballast water capacity of less than 1,500 cubic meters or 5,000 cubic meters or more; or

''(ii) on or after January 1, 2009, and before January 1, 2012, with a ballast water capacity of 5,000 cubic meters or more.

''(4) REVIEW OF STANDARDS.—

''(A) IN GENERAL.—In December, 2012, and in every third year thereafter, the Secretary shall review the treatment standards established in paragraph (1) of this subsection to determine, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, if the standards should be revised to reduce the amount of organisms or microbes allowed to be discharged using the best available technology economically available. The Secretary shall revise such standards as necessary by regulation.

''(B) APPLICATION OF ADJUSTED STANDARDS.—In the regulations, the Secretary shall provide for the prospective application of the adjusted standards prescribed under this paragraph to vessels constructed after the date on which the adjusted standards apply and for an orderly phase-in of the adjusted standards to existing vessels.

''(5) DELAY OF APPLICATION FOR VESSEL PARTICIPATING IN PROMISING TECHNOLOGY EVALUATIONS.—

''(A) IN GENERAL.—If a vessel participates in a program approved by the Secretary to test and evaluate promising ballast water treatment technologies with the potential to result in treatment technologies achieving a standard that is the same as or more stringent than the standard that applies under paragraph (1) before the first date on which paragraph (1) applies to that vessel, the Secretary may postpone the date on which paragraph (1) would otherwise apply to that vessel for not more than 5 years.

''(B) VESSEL DIVERSITY.—The Secretary—

''(i) shall seek to ensure that a wide variety of vessel types and voyages are included in the program; but

''(ii) may not grant a delay under this paragraph to more than 1 percent of the vessels to which subparagraph (A), (B), (C), or (D) of paragraph (3) applies.

''(C) TERMINATION OF POSTPONEMENT.—The Secretary may terminate the 5-year postponement period if participation of the vessel in the program is terminated without the consent of the Secretary.

''(6) FEASIBILITY REVIEW.—

''(A) IN GENERAL.—Not less than 2 years before the date on which paragraph (1) applies to vessels under each subparagraph of paragraph (3), the Secretary shall complete a review to determine whether appropriate technologies are available to achieve the standards set forth in paragraph (1) for the vessels to which they apply under the schedule set forth in paragraph (3).

''(B) DELAY IN SCHEDULED APPLICATION.—If the Secretary determines, on the basis of the review conducted under subparagraph (A), that compliance with the standards set forth in paragraph (1) in accordance with the schedule set forth in any subparagraph of paragraph (3) is not feasible, the Secretary shall—

''(i) extend the date on which that subparagraph first applies to vessels for a period of not more than 36 months; and

''(ii) recommend action to ensure that compliance with the extended date schedule for that subparagraph is achieved.

''(7) TREATMENT SYSTEM APPROVAL REQUIRED.—The operator of a vessel may not use a ballast water treatment system to

comply with the requirements of this subsection unless the system is approved by the Secretary. The Secretary shall promulgate regulations establishing a process for such approval.

''(g) WARNINGS CONCERNING BALLAST WATER UPTAKE.—

''(1) IN GENERAL.—The Secretary shall notify mariners of any area in waters subject to the jurisdiction of the United states in which vessels should not uptake ballast water due to known conditions.

''(2) CONTENTS.—The notice shall include—

''(A) the coordinates of the area; and

''(B) if possible, the location of alternative areas for the uptake of ballast water.

''(h) SEDIMENT MANAGEMENT.—

''(1) IN GENERAL.—The operator of a vessel to which this section applies may not remove or dispose of sediment from spaces designed to carry ballast water except in accordance with this subsection and the ballast water management plan required under subsection (c).

''(2) DESIGN REQUIREMENTS.—

''(A) NEW VESSELS.—No person may remove and dispose of such sediment from a vessel to which this section applies in waters subject to the jurisdiction of the United States that is constructed on or after January 1, 2009, unless the vessel is designed and constructed in a manner that—

''(i) minimizes the uptake and entrapment of sediment;

''(ii) facilitates removal of sediment; and

''(iii) provides for safe access for sediment removal and sampling.

''(B) EXISTING VESSELS.—The operator of a vessel to which this section applies that was constructed before January 1, 2009, may not remove and dispose of such sediment in waters subject to the jurisdiction of the United States unless—

''(i) the vessel has been modified, to the extent practicable and in accordance with regulations promulgated by the Secretary, to achieve the objectives described in clauses (i), (ii), and (iii) of subparagraph (A); or

''(ii) the removal and disposal of the sediment is conducted in such a manner as to achieve those objectives to the greatest extent practicable and in accordance with those regulations.

''(C) REGULATIONS.—The Secretary shall promulgate regulations establishing design and construction standards to achieve the objectives of subparagraph (A) and providing guidance for modifications and practices under subparagraph (B). The Secretary shall incorporate the standards and guidance in the regulations governing the ballast water management plan.

''(3) SEDIMENT RECEPTION FACILITIES.—

''(A) STANDARDS.—The Administrator of the Environmental Protection Agency in consultation with the Secretary, shall promulgate regulations governing facilities for the reception of vessel sediment from spaces designed to carry ballast water that provide for the disposal of such sediment in a way that does not impair or damage the environment, human health, or property or resources of the disposal area. The Administrator may not prescribe standards under this subparagraph that are less stringent than any otherwise applicable Federal, State, or local law requirements.

''(B) DESIGNATION.—The Secretary shall designate facilities for the reception of vessel sediment that meet the requirements of the regulations promulgated under subparagraph (A) at ports and terminals where ballast tanks are cleaned or repaired.

''(i) EXAMINATIONS AND CERTIFICATIONS.—

''(1) INITIAL EXAMINATION.—

''(A) IN GENERAL.—The Secretary shall examine vessels to which this section applies to determine whether—

''(i) there is a ballast water management plan for the vessel; and

''(ii) the equipment used for ballast water and sediment management in accordance with the requirements of this section and the regulations promulgated hereunder is installed and functioning properly.

''(B) NEW VESSELS.—For vessels constructed on or after January 1, 2009, the Secretary shall conduct the examination required by subparagraph (A) before the vessel is placed in service.

''(C) EXISTING VESSELS.—For vessels constructed before January 1, 2009, the Secretary shall—

''(i) conduct the examination required by subparagraph (A) before the date on which subsection (f)(1) applies to the vessel according to the schedule in subsection (f)(3); and

''(ii) inspect the vessel's ballast water record book required by subsection (d).

''(2) SUBSEQUENT EXAMINATIONS.—The Secretary shall examine vessels no less frequently than once each year to ensure vessel compliance with the requirements of this section.

''(3) INSPECTION AUTHORITY.—In order to carry out the provisions of this section, the Secretary may take ballast water samples at any time on any vessel to which this section applies to ensure its compliance with this Act.

''(4) REQUIRED CERTIFICATE.—

''(A) IN GENERAL.—If, on the basis of an initial examination under paragraph (1) the Secretary finds that a vessel complies with the requirements of this section and the regulations promulgated hereunder, the Secretary shall issue a certificate under this paragraph as evidence of such compliance. The certificate shall be valid for a period of not more than 5 years, as specified by the Secretary. The certificate or a true copy shall be maintained on board the vessel.

''(B) FOREIGN CERTIFICATES.—The Secretary may treat a certificate issued by a foreign government as a certificate issued under subparagraph (A) if the Secretary determines that the standards used by the issuing government are equivalent to or more stringent than the standards used by the Secretary under subparagraph (A).

''(5) NOTIFICATION OF VIOLATIONS.—If the Secretary finds, on the basis of an examination under paragraph (1) or (2), sampling under paragraph (3), or any other information, that a vessel is being operated in violation of the requirements of this section and the regulations promulgated hereunder, the Secretary shall—

''(A) notify—

''(i) the master of the vessel; and

''(ii) the captain of the port at the vessel's next port of call; and

''(B) take such other action as may be appropriate.

''(j) DETENTION OF VESSELS.—

''(1) IN GENERAL.—The Secretary, by notice to the owner, charterer, managing operator, agent, master, or other individual in charge of a vessel, may detain that vessel if the Secretary has reasonable cause to believe that—

''(A) the vessel is a vessel to which this section applies;

''(B) the vessel does not comply with the requirements of this section or of the regulations issued hereunder or is being operated in violation of such requirements; and

''(C) the vessel is about to leave a place in the United States.

''(2) CLEARANCE.—

''(A) IN GENERAL.—A vessel detained under paragraph (1) may obtain clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) only if the violation for which it was detained has been corrected.

''(B) WITHDRAWAL.—If the Secretary finds that a vessel detained under paragraph (1) has received a clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) before it was detained under paragraph (1), the Secretary shall request the Secretary of the Treasury to withdraw the clearance. Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance.

''(k) SANCTIONS.—

''(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under this section shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

''(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under this section is guilty of a class C felony.

''(3) REVOCATION OF CLEARANCE.—Except as provided in subsection (j)(2), upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under this section.

''(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

''(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

''(B) the recordkeeping and reporting requirements of the Act are complied with.

''(l) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

''(m) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species. The Secretary is particularly encouraged to seek bilateral or multilateral agreements with Canada, Mexico, and other nations in the Wider Caribbean (as defined in the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean (Cartagena Convention) under this section.

''(n) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.

''(o) SUPPORT FOR FEDERAL BALLAST WATER DEMONSTRATION PROJECT.—In addition to amounts otherwise available to the Maritime Administration, the National Oceanographic and Atmospheric Administration, and the United States Fish and Wildlife Service for the Federal Ballast Water Demonstration Project, the Secretary shall provide support for the conduct and expansion

of the project, including grants for research and development of innovative technologies for the management, treatment, and disposal of ballast water and sediment, for ballast water exchange, and for other vessel vectors of invasive aquatic species such as hull fouling. There are authorized to be appropriated to the Secretary $25,000,000 for each fiscal year to carry out this subsection.

''(p) CONSULTATION WITH TASK FORCE.—The Secretary shall consult with the Task Force in carrying out this section.

''(q) PREEMPTION.—Notwithstanding any other provision of law, the provisions of subsections (e) and (f) (other than subsection (f)(2)) supersede any provision of State or local law determined by the Secretary to be inconsistent with the requirements of that subsection or to conflict with the requirements of that subsection.

''(r) REGULATIONS.—The Secretary may issue such regulations as may be necessary to carry out this section and the terms defined in section 1003 that are used in this section.''.

(b) DEFINITIONS.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(1) by redesignating—

(A) paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(B) paragraphs (4), (5), (6), (7), and (8) as paragraphs (8), (9), (10), (11), and (12), respectively;

(C) paragraphs (9) and (10) as paragraphs (14) and (15) respectively;

(D) paragraphs (11) and (12) as paragraphs (17) and (18), respectively;

(E) paragraphs (13), (14), and (15) as paragraphs (20), (21), and (22), respectively;

(F) paragraph (16) as paragraph (26); and

(G) paragraph (17) as paragraph (23) and inserting it after paragraph (22), as redesignated;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'adverse impact' means the direct or indirect result or consequence of an event or process that—

''(A) creates a hazard to the environment, human health, property, or a natural resource;

''(B) impairs biological diversity; or

''(C) interferes with the legitimate use of waters subject to the jurisdiction of the United States;'';

(3) by striking paragraph (4), as redesignated, and inserting the following:

''(4) 'ballast water'—

''(A) means water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; but

''(B) does not include potable or technical water that does not contain harmful aquatic organisms or pathenogens that is taken on board a vessel and used for a purpose described in subparagraph (A) if such potable or technical water is discharged in compliance with section 312 of the Clean Water Act (33 U.S.C. 1322);'';

(4) by inserting after paragraph (4) the following:

''(5) 'ballast water capacity' means the total volumetric capacity of any tanks, spaces, or compartments on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

''(6) 'ballast water management' means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediment;

''(7) 'constructed' means a state of construction of a vessel at which—

''(A) the keel is laid;

''(B) construction identifiable with the specific vessel begins;

''(C) assembly of the vessel has begun comprising at least 50 tons or 1 percent of the estimated mass of all structural material of the vessel, whichever is less; or

''(D) the vessel undergoes a major conversion;'';

(5) by inserting after paragraph (12), as redesignated, the following:

''(13) 'harmful aquatic organisms and pathogens' means aquatic organisms or pathogens that have been determined by the Secretary, after consultation with the Administrator of the National Oceanographic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, to cause an adverse impact if introduced into the waters subject to the jurisdiction of the United States;'';

(6) by inserting after paragraph (15), as redesignated, the following:

''(16) 'major conversion' means a conversion of a vessel, that—

''(A) changes its ballast water carrying capacity by at least 15 percent;

''(B) changes the vessel class;

''(C) is projected to prolong the vessel's life by at least 10 years (as determined by the Secretary); or

''(D) results in modifications to the vessel's ballast water system, except—

''(i) component replacement-in-kind; or

''(ii) conversion of a vessel to meet the requirements of section 1101(e);'';

(7) by inserting after paragraph (18), as redesignated, the following:

''(19) 'sediment' means matter that has settled out of ballast water within a vessel;'';

(8) by inserting after paragraph (23), as redesignated, the following:

''(24) 'United States port' means a port, river, harbor, or offshore terminal under the jurisdiction of the United States, including ports located in Puerto Rico, Guam, the Northern Marianas, and the United States Virgin Islands;

''(25) 'vessel of the Armed Forces' means—

''(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

''(B) any vessel owned or operated by the Department of Homeland Security that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A);''; and

(9) by inserting after paragraph (26), as redesignated, the following:

''(27) 'waters subject to the jurisdiction of the United States' means navigable waters and the territorial sea of the United States, the exclusive economic zone, and the Great Lakes.''.

(c) GREAT LAKES REGULATIONS.—Until vessels described in section 1101(e)(2) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(e)(2)), as amended by this Act, are required to conduct ballast water treatment in accordance with the requirements of section 1101(f) of that Act (16 U.S.C. 1101(f)), as amended by this Act, the regulations promulgated by the Secretary of Transportation under section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711), as such regulations were in effect on the day before the date of enactment of this Act, shall remain in full force and effect for, and shall continue to apply to, such vessels.

SEC. 4. COAST GUARD REPORT ON OTHER VESSEL-RELATED VECTORS OF INVASIVE SPECIES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on vessel-related vectors of harmful aquatic organisms and pathogens other than ballast water and sediment, including vessel hulls and equipment, and from vessels equipped with ballast tanks that carry no ballast water on board.

(b) BEST PRACTICES.—As soon as practicable, the Coast Guard shall develop best practices standards and procedures designed to reduce the introduction of invasive species into and within the United States from vessels and establish a timeframe for implementation of those standards and procedures by vessels, in addition to the mandatory requirements set forth in section 1101 for ballast water. Such standards and procedures should include designation of geographical locations for uptake and/or discharge of untreated ballast water, as well as standards and procedures for other vessel vectors of invasive aquatic species. The Commandant shall transmit a report to the Committees describing the standards and procedures developed and the implementation timeframe, together with any recommendations, including legislative recommendations if appropriate, the Commandant deems appropriate. The Secretary of the department in which the Coast Guard is operating may promulgate regulations to incorporate and enforce standards and procedures developed under this subsection.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. 2491. A bill to amend the Public Health Service Act to promote and improve the allied health professors; to the Committee on Health, Education, Labor, and Pensions.

Ms. CANTWELL. Mr. President, the well-being of the U.S. population depends to a considerable extent on having access to high quality health care which, in turn, requires the presence of an adequate supply of health care professionals. The Congress and the President recognized this need when we passed, and President Bush signed, the Nurse Reinvestment Act in the 107th Congress. Just as with nurses, we must also insure an adequate supply of well-prepared allied health professionals. That is why, today, I am introducing the Allied Health Reinvestment Act with my good colleagues, Senator BINGAMAN of New Mexico and Senator LIEBERMAN of Connecticut.

The allied health professions are many. Those recognized in the act include professionals in the areas of: dental hygiene, dietetics/nutrition, emergency medical services, health information management, clinical laboratory sciences/medical technology, cytotechnology, occupational therapy, physical therapy, radiologic technology, nuclear medical technology, rehabilitation counseling, respiratory therapy, and speech-language pathology/audiology. This is not an exhaustive list, as the act will leave to the discretion of the Secretary of HHS additional professions deemed eligible.

Today, many allied health professions are characterized by existing workforce shortages, declining enrollments in academic institutions, or a

combination of both factors. The American Hospital Association (AHA) reports vacancy rates of 18 percent among radiology technicians, ten percent among laboratory technologists, 15.3 percent among imaging technicians, and 12.7 percent among pharmacy technicians. In addition, the AHA indicates that hospitals are having increasing difficulties recruiting these same professionals over the preceding two-year period.

In my own State of Washington, the Washington State Hospital Association reports vacancy rates of 14.3 percent among ultrasound technologists, 11.3 percent among radiology technicians, and 10.9 percent among nuclear medicine technologists. These vacancy rates have a real effect on the hospitals in my State. When I meet with hospital officials back home, they always tell me how the lack of technicians affects patient care.

The Bureau of Labor Statistics projected that in the period 1998–2008, the United States would need a total of 93,000 new professionals in clinical laboratory science by creating 53,000 new positions and filling the 40,000 existing vacancies. That averages 9,000 openings per year for technicians, and yet academic institutions are producing only 4,990 graduates annually. If these numbers stay constant, we will be short by 43,100 needed technicians in 2008.

According to the American Hospital Association, declining enrollment in health education programs contributes to the critical shortages of health care professionals. Similarly, data from a November 2002 study of 90 institutions by the Association of Schools of Allied Health Professionals (ASAHP) shows a three-year period of decline in enrollment in cardiovascular perfusion technology, cytotechnology, dietetics, emergency medical sciences, health administration, health information management, medical technology, occupational therapy, rehabilitation counseling, respiratory therapy, and respiratory therapy technician programs. As an indication of a worsening situation, data from the 2002–2003 academic year, alone, show that dental hygiene, physician assistant, and speech-language pathology and audiology should be added to this list.

While having an adequate number of health professionals in our country is key to ensuring access to health care for all of us, certainly one of the key populations for whom a healthy supply of health professionals is vitally important for is our senior population.

The U.S. Census Bureau reports that rapid growth of the population age 65 and over will begin in 2011 when the first of the baby boom generation reaches age 65 and will continue for many years. From 1900 to 2000, the proportion of persons 65 and over tripled, going from 4.1 percent to 12.4 percent.

The baby-boom generation's movement into middle age, a period when the incidence of heart attack and stroke increases, will produce a higher demand for therapeutic services. Medical advances now enable more patients with critical problems to survive, but in order to do so and maintain a high quality of life, these patients may need extensive therapy.

Along with the aging of the population came an increase in the number of Americans living with one, and often more than one, chronic condition. Today, it is estimated that 125 million Americans live with a chronic condition, and by 2020 as the population ages, that number will increase to an estimated 157 million, with 81 million of them having two or more chronic conditions. Twenty-five percent of individuals with chronic conditions have some type of activity limitations. Two-thirds of Medicare spending is for beneficiaries with five or more chronic conditions.

Many individuals with chronic conditions rely on family caregivers. Approximately nine million Americans provide such services, and on the average, they spend 24 hours a week doing so. Caregivers aged 65–74 provide an average of 30.7 hours of care per week and individuals aged 75 and older provide an average of 34.5 hours per week.

Women are more likely than men to have chronic conditions, in part because they have longer life expectancies. These same women are caregivers to other chronically ill persons. In addition, 65 percent of caregivers are female, and of all caregivers, nearly 40 percent are 55 years of age and older.

Physicians report that their training does not adequately prepare them to care for this type of patient by providing education and offering effective nutritional guidance. Those aspects of care can be provided by allied health professionals, but many of them need better preparation to treat and coordinate care for patients with chronic conditions. While much emphasis is placed on curative forms of care, additional efforts must be devoted to slowing the progression of disease and its effects.

One example of the effectiveness of allied health interventions may be illustrated by a study funded by the National Institute on Aging, the National Center for Medical Rehabilitation Research, and the Agency for Health Care Policy and Research (since renamed the Agency for Healthcare Research and Quality). The investigation showed that significant benefits resulted from a nine-month occupational therapy intervention intended to reduce health-related declines among urban, multi-ethnic, independent-living older adults. The majority of study participants, 73 percent, lived alone and 26 percent reported at least one disability. Important health-related benefits attributable to the intervention continued over a six-month interval in the absence of further treatment.

The bill I and my colleagues introduce today, like the Nurse Reinvestment Act in the 107th Congress, is intended to provide incentives for individuals to seek and complete high quality allied health education and training. Furthermore, the bill will provide additional funding to ensure that such education and training can be provided to allied health students so that the U.S. healthcare industry will have a supply of allied health professionals needed to support the nation's health care system in this decade and beyond.

The bill offers allied health education, practice, and retention grants. Education grants will be used to expand the enrollment in allied health education programs, especially by underrepresented racial and ethnic minority students, and provide educational opportunities through new technologies and methods, including distance-learning. Practice grants are intended to establish or expand allied health practice arrangements in non-institutional settings to demonstrate methods that will improve access to primary health care in rural areas and other medically underserved communities. Retention grants are intended to promote career advancement for allied health personnel.

Grants will also be made available to health care facilities to enable them to carry out demonstrations of models and best practices in allied health for the purpose of developing innovative strategies or approaches for retention of allied health professionals. These grants will be awarded to a variety of geographic regions, and to a range of different types and sizes of facilities, including facilities located in rural, urban, and suburban areas.

Furthermore, this bill will give the Secretary of HHS, acting through the Administrator of HRSA, the authority to enter into an agreement with any institution that offers an eligible allied health education program to establish and operate a faculty loan fund to increase the number of qualified allied health faculty. Loans may be granted to faculty who are pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program.

I am especially proud of the provisions of this legislation regarding the National Health Service Corps program, the brain child of Senator Warren Magnuson of Washington. The NHSC program, of course, encourages students in the health professions such as doctors and dentists to serve in underserved areas throughout our Nation in return for loan repayment assistance. And, like the NHSC program, this Allied Health Reinvestment Act will establish a scholarship program that provides scholarships to individuals seeking allied health education in exchange for service by those individuals in rural and other medically underserved areas with allied health personnel shortages.

There are a number of organizations supporting this bill, and I thank them for that support. Among them, the list includes, but is not limited to:

Washington State Hospital Association
Health Work Force Institute (Seattle, WA)
American Association for Respiratory Care
American Association of Community Colleges
American Clinical Laboratory Association
American Dental Hygienists' Association
American Dietetic Association
American Health Information Management Association
American Physical Therapy Association
American Society for Clinical Laboratory Science
American Society for Clinical Pathology
American Society of Radiologic Technologists
Association of Academic Health Centers
College of Health Deans
Midwest Regional Deans Group
Myositis Association
National Association of EMS Educators
National Cancer Registrars Association
National Network of Health Career Programs in Two-Year Colleges
Northeast Regional Deans Group

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2491

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 ''Allied Health Reinvestment Act''.

SEC. 2. FINDINGS AND PURPOSE.

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

(1) The United States Census Bureau and other reports highlight the increased demand for acute and chronic healthcare services among both the general population and a rapidly growing aging portion of the population.

(2) The calls for reduction in medical errors, increased patient safety, and quality of care have resulted in an amplified call for allied health professionals to provide healthcare services.

(3) Several allied health professions are characterized by workforce shortages, declining enrollments in allied health education programs, or a combination of both factors, and hospital officials have reported vacancy rates in positions occupied by allied health professionals.

(4) Many allied health education programs are facing significant economic pressure that could force their closure due to an insufficient number of students.

(b) PURPOSE.—It is the purpose of this Act to provide incentives for individuals to seek and complete high quality allied health education and training and provide additional funding to ensure that such education and training can be provided to allied health students so that the United States healthcare industry with have a supply of allied health professionals needed to support the health care system of the United States in this decade and beyond.

SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) is amended by adding at the end the following:

''PART G—ALLIED HEALTH PROFESSIONALS

''SEC. 799C. DEFINITIONS.

''In this part:

''(1) ALLIED HEALTH EDUCATION PROGRAM.—The term 'allied health education program' means any postsecondary educational program offered by an institution accredited by an agency or commission recognized by the Department of Education, or leading to a State certificate or license or any other educational program approved by the Secretary. Such term includes colleges, universities, or schools of allied health and equivalent entities that include programs leading to a certificate, associate, baccalaureate, or graduate level degree in an allied health profession.

''(2) ALLIED HEALTH PROFESSIONS.—The term 'allied health professions' includes professions in the following areas at the certificate, associate, baccalaureate, or graduate level:

''(A) Dental hygiene.

''(B) Dietetics or nutrition.

''(C) Emergency medical services.

''(D) Health information management.

''(E) Clinical laboratory sciences and medical technology.

''(F) Cytotechnology.

''(G) Occupational therapy.

''(H) Physical therapy.

''(I) Radiologic technology.

''(J) Nuclear medical technology.

''(K) Rehabilitation counseling.

''(L) Respiratory therapy.

''(M) Speech-language pathology and audiology.

''(N) Any other profession determined appropriate by the Secretary.

''(3) HEALTH CARE FACILITY.—The term 'health care facility' means an outpatient health care facility, hospital, nursing home, home health care agency, hospice, federally qualified health center, nurse managed health center, rural health clinic, public health clinic, or any similar healthcare facility or practice that employs allied health professionals.

''SEC. 799C–1. PUBLIC SERVICE ANNOUNCEMENTS.

''The Secretary shall develop and issue public service announcements that shall—

''(1) advertise and promote the allied health professions;

''(2) highlight the advantages and rewards of the allied health professions; and

''(3) encourage individuals from diverse communities and backgrounds to enter the allied health professions.

''SEC. 799C–2. STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.

''(a) IN GENERAL.—The Secretary shall award grants to designated eligible entities to support State and local advertising campaigns that are conducted through appropriate media outlets (as determined by the Secretary) to—

''(1) promote the allied health professions;

''(2) highlight the advantages and rewards of the allied health professions; and

''(3) encourage individuals from disadvantaged communities and backgrounds to enter the allied health professions.

''(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) be a professional, national, or State allied health association, State health care provider, or association of one or more health care facilities, allied health education programs, or other entities that provides similar services or serves a like function; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''SEC. 799C–3. ALLIED HEALTH RECRUITMENT GRANT PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to increase allied health professions education opportunities.

''(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) be a professional, national, or State allied health association, State health care provider, or association of one or more health care facilities, allied health education programs, or other eligible entities that provides similar services or serves a like function; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity shall use amounts received under a grant under subsection (a) to—

''(1) support outreach programs at elementary and secondary schools that inform guidance counselors and students of education opportunities regarding the allied health professions;

''(2) carry out special projects to increase allied health education opportunities for individuals who are from disadvantaged backgrounds (including racial and ethnic minorities that are underrepresented among the allied health professions) by providing student scholarships or stipends, pre-entry preparation, and retention activities;

''(3) provide assistance to public and nonprofit private educational institutions to support remedial education programs for allied health students who require assistance with math, science, English, and medical terminology;

''(4) meet the costs of child care and transportation for individuals who are taking part in an allied health education program at any level; and

''(5) support community-based partnerships seeking to recruit allied health professionals in rural communities and medically underserved urban communities, and other communities experiencing an allied health professions shortage.

''SEC. 799C–4. GRANTS FOR HEALTH CAREER ACADEMIES.

''(a) IN GENERAL.—The Secretary shall award grants to eligible entities to assist such entities in collaborating to carry out programs that form education pipelines to facilitate the entry of students of secondary educational institutions, especially underrepresented racial and ethnic minorities, into careers in the allied health professions.

''(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) be an institution that offers allied health education programs, a health care facility, or a secondary educational institution; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''SEC. 799C–5. ALLIED HEALTH EDUCATION, PRACTICE, AND RETENTION GRANTS.

''(a) EDUCATION PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to—

''(1) expand the enrollment of individuals in allied health education programs, especially the enrollment of underrepresented racial and ethnic minority students; and

''(2) provide education through new technologies and methods, including distance-learning methodologies.

''(b) PRACTICE PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to—

''(1) establish or expand allied health practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in rural areas and other medically underserved communities;

''(2) provide care for underserved populations and other high-risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, the homeless, and victims of domestic violence;

''(3) provide managed care, information management, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; or

''(4) develop generational and cultural competencies among allied health professionals.

''(c) RETENTION PRIORITY AREAS.—

''(1) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to enhance the allied health professions workforce by initiating and maintaining allied health retention programs described in paragraph (2) or (3).

''(2) GRANTS FOR CAREER LADDER PROGRAMS.—The Secretary may award grants to and enter into contracts with eligible entities for programs—

''(A) to promote career advancement for allied health personnel in a variety of training settings, cross training or specialty training among diverse population groups, and the advancement of individuals; and

''(B) to assist individuals in obtaining the education and training required to enter the allied health professions and advance within such professions, such as by providing career counseling and mentoring.

''(3) ENHANCING PATIENT CARE DELIVERY SYSTEMS.—

''(A) GRANTS.—The Secretary may award grants to eligible entities to improve the retention of allied health professionals and to enhance patient care that is directly related to allied health activities by enhancing collaboration and communication among allied health professionals and other health care professionals, and by promoting allied health involvement in the organizational and clinical decision-making processes of a health care facility.

''(B) PREFERENCE.—In making awards of grants under this paragraph, the Secretary shall give preferences to applicants that have not previously received an award under this paragraph and to applicants from rural, underserved areas.

''(C) CONTINUATION OF AN AWARD.—The Secretary shall make continuation of any award under this paragraph beyond the second year of such award contingent on the recipient of such award having demonstrated to the Secretary measurable and substantive improvement in allied health personnel retention or patient care.

''(d) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a health care facility, or any partnership or coalition containing a health care facility or allied health education program; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''SEC. 799C-6. DEVELOPING MODELS AND BEST PRACTICES PROGRAM.

''(a) AUTHORIZED.—The Secretary shall award grants to eligible entities to enable such entities to carry out demonstration programs using models and best practices in allied health for the purpose of developing innovative strategies or approaches for the retention of allied health professionals.

''(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a health care facility, or any partnership or coalition containing a health care facility or allied health education program; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grantee represent a variety of geographic regions and a range of different types and sizes of facilities, including facilities located in rural, urban, and suburban areas.

''(d) USE OF FUNDS.—An entity shall use amounts received under a grant under this section to carry out demonstration programs of models and best practices in allied health for the purpose of—

''(1) promoting retention and satisfaction of allied health professionals;

''(2) promoting opportunities for allied health professionals to pursue education, career advancement, and organizational recognition; and

''(3) developing continuing education programs that instruct allied health professionals in how to use emerging medical technologies and how to address current and future health care needs.

''(e) AREA HEALTH EDUCATION CENTERS.—The Secretary shall award grants to area health education centers to enable such centers to enter into contracts with allied health education programs to expand the operation of area health education centers to work in communities to develop models of excellence for allied health professionals or to expand any junior and senior high school mentoring programs to include an allied health professions mentoring program.

''SEC. 799C–7. ALLIED HEALTH FACULTY LOAN PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with any institution offering an eligible allied health education program for the establishment and operation of a faculty loan fund in accordance with this section (referred to in this section as the 'loan fund'), to increase the number of qualified allied health faculty.

''(b) AGREEMENTS.—Each agreement entered into under this section shall—

''(1) provide for the establishment of a loan fund by the institution offering the allied health education program involved;

''(2) provide for deposit in the loan fund of—

''(A) the Federal capital contributions to the fund;

''(B) an amount provided by the institution involved which shall be equal to not less than one-ninth of the amount of the Federal capital contribution under subparagraph (A);

''(C) any collections of principal and interest on loans made from the fund; and

''(D) any other earnings of the fund;

''(3) provide that the loan fund will be used only for the provision of loans to faculty of the allied health education program in accordance with subsection (c) and for the costs of the collection of such loans and the interest thereon;

''(4) provide that loans may be made from such fund only to faculty who are pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program; and

''(5) contain such other provisions determined appropriate by the Secretary to protect the financial interests of the United States.

''(c) LOAN PROVISIONS.—Loans from any faculty loan fund established pursuant to an agreement under this section shall be made to an individual on such terms and conditions as the allied health education program may determine, except that—

''(1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary;

''(2) in the case of any individual, the total of the loans for any academic year made by an allied health education program from loan funds established pursuant to agreements under this section may not exceed $30,000, plus any amount determined by the Secretary on an annual basis to reflect inflation;

''(3) upon completion by the individual of each of the first, second, and third year of full-time employment, as required under the loan agreement, as a faculty member in an allied health education program, the program shall cancel 20 percent of the principal and interest due on the amount of the unpaid portion of the loan on the first day of such employment;

''(4) upon completion by the individual of the fourth year of full-time employment, as required under the loan agreement, as a faculty member in an allied health education program, the program shall cancel 25 percent of the principal and interest due on the amount of the unpaid portion of the loan on the first day of such employment;

''(5) the loan may be used to pay the cost of tuition, fees, books, laboratory expenses, and other reasonable education expenses;

''(6) the loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the 10-year period that begins 9 months after the individual ceases to pursue a course of study in an allied health education program; and

''(7) such loan shall—

''(A) beginning on the date that is 3 months after the individual ceases to pursue a course of study in an allied health education program, bear interest on the unpaid balance of the loan at the rate of 3 percent per year; or

''(B) subject to subsection (e), if the allied health education program determines that the individual will not complete such course of study or serve as a faculty member as required under the loan agreement under this subsection, bear interest on the unpaid balance of the loan at the prevailing market rate.

''(d) PAYMENT OF PROPORTIONATE SHARE.—Where all or any part of a loan (including interest thereon) is canceled under this section, the Secretary shall pay to the allied health education program involved an amount equal to the program's proportionate share of the canceled portion, as determined by the Secretary.

''(e) REVIEW BY SECRETARY.—At the request of the individual involved, the Secretary may review any determination by an allied health education program under this section.

''SEC. 799C–8. SCHOLARSHIP PROGRAM FOR SERVICE IN RURAL AND OTHER MEDICALLY UNDERSERVED AREAS.

''(a) PROGRAM AUTHORIZED.—The Secretary shall establish a scholarship program (referred to in this section as the 'program') to provide scholarships to individuals seeking allied health education who agree to provide service in rural and other medically underserved areas with allied health personnel shortages.

''(b) PREFERENCE.—In awarding scholarships under this section, the Secretary shall give preference to—

''(1) applicants who demonstrate the greatest financial need;

''(2) applicants who agree to serve in health care facilities experiencing allied health shortages in rural and other medically underserved areas;

''(3) applicants who are currently working in a health care facility who agree to serve

the period of obligated service at such facility;

''(4) minority applicants; and

''(5) applicants with an interest in a practice area of allied health that has unmet needs.

''(c) PROGRAM REQUIREMENTS.—

''(1) CONTRACTS.—Under the program, the Secretary shall enter into contracts with eligible individuals under which such individuals agree to serve as allied health professionals for a period of not less than 2 years at a health care facility with a critical shortage of allied health professionals in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance in an allied health education program.

''(2) ELIGIBLE INDIVIDUALS.—In this subsection, the term 'eligible individual' means an individual who is enrolled or accepted for enrollment as a full-time or part-time student in an allied health education program.

''(3) SERVICE REQUIREMENT.—

''(A) IN GENERAL.—The Secretary may not enter into a contract with an eligible individual under this section unless the individual agrees to serve as an allied health professional at a health care facility with a critical shortage of allied health professionals for a period of full-time service of not less than 2 years, or for a period of part-time service in accordance with subparagraph (B).

''(B) PART-TIME SERVICE.—An individual may complete the period of service described in subparagraph (A) on a part-time basis if the individual has a written agreement that—

''(i) is entered into by the facility and the individual and is approved by the Secretary; and

''(ii) provides that the period of obligated service will be extended so that the aggregate amount of service performed will equal the amount of service that would be performed through a period of full-time service of not less than 2 years.

''(d) REPORTS.—Not later than 18 months after the date of enactment of this part, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing the program carried out under this section, including statements regarding—

''(1) the number of enrollees by specialty or discipline, scholarships, and grant recipients;

''(2) the number of graduates;

''(3) the amount of scholarship payments made;

''(4) which educational institution the recipients attended;

''(5) the number and placement location of the scholarship recipients at health care facilities with a critical shortage of allied health professionals;

''(6) the default rate and actions required;

''(7) the amount of outstanding default funds of the scholarship program;

''(8) to the extent that it can be determined, the reason for the default;

''(9) the demographics of the individuals participating in the scholarship program; and

''(10) an evaluation of the overall costs and benefits of the program.

''SEC. 799C–9. GRANTS FOR CLINICAL EDUCATION, INTERNSHIP, AND RESIDENCY PROGRAMS.

''(a) PROGRAM AUTHORIZED.— The Secretary shall award grants to eligible entities to develop clinical education, internship, and residency programs that encourage mentoring and the development of specialties.

''(b) ELIGIBLE ENTITIES.—To be eligible for a grant under this section an entity shall—

''(1) be a partnership of an allied health education program and a health care facility; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to—

''(1) develop clinical education, internship, and residency programs and curriculum and training programs for graduates of an allied health education program;

''(2) provide support for faculty and mentors; and

''(3) provide support for allied health professionals participating in clinical education, internship, and residency programs on both a full-time and part-time basis.

''SEC. 799C–10. GRANTS FOR PARTNERSHIPS.

''(a) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to form partnerships to carry out the activities described in this section.

''(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, and entity shall—

''(1) be a partnership between an allied health education program and a health care facility; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to—

''(1) provide employees of the health care facility that is a member of the partnership involved advanced training and education in a allied health education program;

''(2) establish or expand allied health practice arrangements in non-institutional settings to demonstrate methods to improve access to health care in rural and other medically underserved communities;

''(3) purchase distance learning technology to extend general education and training programs to rural areas, and to extend specialty education and training programs to all areas; and

''(4) establish or expand mentoring, clinical education, and internship programs for training in specialty care areas.

''SEC. 799C–11. ALLIED HEALTH PROFESSIONS TRAINING FOR DIVERSITY.

'' The Secretary, acting in conjunction with allied health professional associations, shall develop a system for collecting and analyzing allied health workforce data gathered by the Bureau of Labor Statistics, the Health Resources and Services Administration, other entities within the Department of Health and Human Services, the Department of Veterans Affairs, the Center for Medicare & Medicaid Services, the Department of Defense, allied health professional associations, and regional centers for health workforce studies to determine educational pipeline and practitioner shortages, and project future needs for such a workforce.

''SEC. 799C–12. ALLIED HEALTH PROFESSIONS TRAINING FOR DIVERSITY.

''The Secretary shall include schools of allied health among the health professions schools that are eligible to receive grants under this part for the purpose of assisting such schools in supporting Centers of Excellence in health professions education for under-represented minority individuals.

''SEC. 799C–13. REPORTS BY GENERAL ACCOUNTING OFFICE.

'' Not later than 4 years after the date of enactment of this part, the Comptroller General of the United States shall conduct an evaluation of whether the programs carried out under this part have demonstrably increased the number of applicants to allied health education programs and prepare and submit to the appropriate committees of Congress a report concerning the results of such evaluation.

''SEC. 799C–14. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part, such sums as may be necessary for each of fiscal years 2005 through 2010. ''.

By Mr. CONRAD:

S. 2492. A bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing the Improving Access to Nurse-Midwife Care Act of 2004. For too many years, certified nurse midwives (CNMs) have not received adequate reimbursement under the Medicare program. My legislation takes important steps to improve reimbursement for CNMs.

There are approximately 2 million disabled women on Medicare who are of childbearing age; however, if they choose to utilize a CNM for ''well women'' services, the CNM is only reimbursed at 65 percent of the physician fee schedule. In practical terms, the typical well-woman visit costs, on average, $50. But Medicare currently reimburses CNMs in rural areas only $14 for this visit, which could include a pap smear, mammogram, and other precancer screenings. CNMs administer the same tests and incur the same costs as physicians but receive only 65 percent of the physician fee schedule for these services. Other non-physician providers, such as nurse practitioners and physician assistants are reimbursed at 85 percent of the physician fee schedule. This reduced payment is unfair and does not adequately reflect the services CNMs provide to beneficiaries. At this incredibly low rate of reimbursement, the Medicare Payment Advisory Committee (MedPAC) agrees that a CNM simply cannot afford to provide services to Medicare patients.

In June of 2002, MedPAC issued a report titled, ''Medicare Payment to Advance Practice Nurses and Physician Assistants.'' In a 14–0 vote, MedPAC recommended to Congress that the percentage of reimbursement for CNM services be increased. Moreover, because practice expenses are much higher for CNMs—liability coverage costs for CNMs are 10-fold higher than for other non-physician providers—MedPAC signaled that CNMs should be paid more than 85 percent. My legislation would increase the level of reimbursement to 95 percent of the physician fee schedule, which more adequately reflects the cost of providing midwifery services.

My legislation would also make several technical changes to current Medicare provisions that limit the ability of

midwives to effectively serve the Medicare-eligible population. In particular, CNMs serve as faculty members of medical schools. For over 20 years, they have supervised and trained interns and residents. The bill guarantees payment for graduate medical education and includes technical corrections that will clarify the reassignment of billing rights for CNMs who are employed by others. Finally, my bill would establish recognition for a certified midwife (CM) to provide services under Medicare. Despite the fact that CNMs and CMs provide the same services, Medicare has yet to recognize CNs as eligible providers. My bill would change this.

This bill will enhance access to ''well woman'' care for thousands of women in underserved communities and make several needed changes to improve access to midwives. I urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 369—EXPRESSING THE SENSE OF THE SENATE IN HONORING THE SERVICE OF THE MEN AND WOMEN WHO SERVED IN THE ARMED FORCES OF THE UNITED STATES DURING WORLD WAR II

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 369

Whereas during the dark days of World War II, the United States, the world, and the very future of freedom were threatened by nazism, fascism, and tyranny;

Whereas a generation of Americans stepped forward to confront this scourge, accepting the call to duty to fight the Axis Powers, to defend freedom, and to put their lives on the line so that future generations could live in peace and freedom;

Whereas during World War II, the brave men and women of the Armed Forces of the United States fought alongside allies from more than 30 other nations to vanquish the tyranny and oppression of the Axis Powers on the sea, on the land, and in the air in distant lands in every part of the globe;

Whereas more than 16,000,000 Americans served in the Armed Forces of the United States during World War II, hailing from every corner of the United States and its territories;

Whereas more than 671,000 Americans were wounded and over 105,000 Americans were held as prisoners of war in that terrible conflict;

Whereas more than 400,000 members of the Armed Forces of the United States made the ultimate sacrifice, giving their lives to defeat the evils of nazism, fascism, and tyranny, and to preserve the United States and the ideals the people of the United States hold true;

Whereas by the end of World War II, the members of the Armed Forces of the United States had become symbols of hope for the victors, the liberated peoples of the world, and their former adversaries;

Whereas the victory of the Allied Powers in World War II paved the way for the growth of democracy and freedom in the defeated nations of Germany and Japan, and laid the foundation for the West to confront, and eventually defeat, the threat of Communism;

Whereas the people of the United States can never fully express their gratitude to all the members of the Armed Services, including the ''Greatest Generation'' of World War II, who have dedicated themselves to protecting the people of the United States and to defending the ideals and principles of our great country;

Whereas 114 veterans of World War II have served in the Senate, including 6 who are currently serving: Senator Akaka of Hawaii, Senator Hollings of South Carolina, Senator Inouye of Hawaii, Senator Lautenberg of New Jersey, Senator Stevens of Alaska, and Senator Warner of Virginia; and

Whereas the Senate, on the occasion of the dedication of the World War II Memorial and the 60th Anniversary of the D-day landings in Normandy, France, is proud to honor its Members, past and present, who served in World War II: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its eternal appreciation for the veterans of the Armed Forces of the United States who fought and toiled to protect the United States and preserve the freedom and way of life of the United States during World War II;

(2) honors the brave men and women who made the ultimate sacrifice and gave their lives in defense of liberty and the United States during that global conflict; and

(3) proudly commends the 108 former Members and 6 current Members of the Senate who are veterans of World War II, including Senator Akaka, Senator Hollings, Senator Inouye, Senator Lautenberg, Senator Stevens, and Senator Warner, for their leadership and service to the United States both in war and in peace.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3257. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3258. Mr. GRAHAM, of South Carolina (for himself, Mr. DASCHLE, Mrs. CLINTON, Ms. CANTWELL, Mr. DAYTON, Mr. ALLEN, Ms. MURKOWSKI, Mr. LOTT, Mr. COLEMAN, Mr. DEWINE, Mr. LEAHY, Mrs. LINCOLN, Mr. CORZINE, Mr. DORGAN, Mr. BINGAMAN, Mrs. MURRAY, and Ms. LANDRIEU) proposed an amendment to the bill S. 2400, supra.

SA 3259. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3260. Mr. WARNER (for himself, Mr. LEVIN, and Mr. STEVENS) proposed an amendment to the bill S. 2400, supra.

TEXT OF AMENDMENTS

SA 3257. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 184, between lines 16 and 17, insert the following:

Subtitle F—Public-Private Competitions

SEC. 856. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

''(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

''(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003;

''(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees;

''(iv) provides no advantage to an offeror in the cost comparison process for a proposal to reduce costs for the Department of Defense by not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of such function under a contract; and

''(v) provides no advantage to an offeror in the cost comparison process for a proposal to reduce costs for the Department of Defense by offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than that which is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5.

''(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

''(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

''(D) The cost savings requirement specified in subparagraph (A) does not apply to any contract for special studies and analyses, medical services, scientific and technical services related to (but not in support of) research and development, depot-level maintenance and repair services, or services

performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

''(E) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

''(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

''(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

''(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.''.

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—(1) Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

SEC. 857. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—(1) The Secretary of Defense shall prescribe and enforce guidelines for ensuring that Federal Government employees can compete through the public-private process pursuant to Office of Management and Budget Circular A–76 on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) The guidelines prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—(1) No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A–76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''National Security Personnel System'' means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term ''inherently governmental function'' has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SEC. 858. COMPETITIVE SOURCING REPORTING REQUIREMENT.

Not later than February 1, 2005, the Inspector General of the Department of Defense shall submit to Congress a report addressing whether the Department of Defense—

(1) employs a sufficient number of adequately trained civilian employees—

(A) to conduct satisfactorily, taking into account equity, efficiency and expeditiousness, all of the public-private competitions that are scheduled to be undertaken by the Department of Defense during the next fiscal year (including a sufficient number of employees to formulate satisfactorily the performance work statements and most efficient organization plans for the purposes of such competitions); and

(B) to administer any resulting contracts; and

(2) has implemented a comprehensive and reliable system to track and assess the cost and quality of the performance of functions of the Department of Defense by service contractors.

SA 3258. Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mrs. CLINTON, Ms. CANTWELL, Mr. DAYTON, Mr. ALLEN, Ms. MURKOWSKI, Mr. LOTT, Mr. COLEMAN, Mr. DEWINE, Mr. LEAHY, Mrs. LINCOLN, Mr. CORZINE, Mr. DORGAN, Mr. BINGAMAN, Mrs. MURRAY, and Ms. LANDRIEU) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Beginning on page 134, strike line 18 and all that follows through page 141, line 12, and insert the following:

SEC. 706. EXPANDED ELIGIBILITY OF READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) UNCONDITIONAL ELIGIBILITY.—Subsection (a) of section 1076b of title 10, United States Code, is amended by striking ''is eligible, subject to subsection (h), to enroll in TRICARE'' and all that follows through ''an employer-sponsored health benefits plan'' and inserting '', except for a member who is enrolled or is eligible to enroll in a health benefits plan under chapter 89 of title 5, is eligible to enroll in TRICARE, subject to subsection (h)''.

(b) PERMANENT AUTHORITY.—Subsection (l) of such section is repealed.

(c) CONFORMING REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended—

(1) by striking subsections (i) and (j); and

(2) by redesignating subsection (k) as subsection (i).

SEC. 707. CONTINUATION OF NON-TRICARE HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN RESERVES CALLED OR ORDERED TO ACTIVE DUTY AND THEIR DEPENDENTS.

(a) REQUIRED CONTINUATION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

''§ 1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty

''(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for the members of the family of an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (j).

''(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

''(2) For the purposes of this section, the members of the family of an eligible reserve component member include only the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

''(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for the members of the family of a reserve component member called or ordered to active duty is qualified health benefits plan coverage if—

''(1) the coverage was in force on the date on which the Secretary notified the reserve component member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

''(2) on such date, the coverage applied to the reserve component member and members of the family of the reserve component member; and

''(3) the coverage has not lapsed.

''(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage for the family members of a reserve component member is the amount of the premium payable by the member for the coverage of the family members.

''(e) MAXIMUM AMOUNT.—The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for the family members of a reserve component member under this section in a fiscal year may not exceed the amount determined by multiplying—

''(1) the sum of one plus the number of the family members covered by the health benefits plan, by

''(2) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

''(f) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage for the family members of an eligible reserve component member called or ordered to active duty is the period that—

''(1) begins on the date of the call or order; and

''(2) ends on the earlier of—

''(A) the date on which the reserve component member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section; or

''(B) the date on which the reserve component member elects to terminate the continued qualified health benefits plan coverage of the member's family members.

''(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

''(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for an eligible reserve component member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

''(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(h) NONDUPLICATION OF BENEFITS.—A member of the family of a reserve component member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of the reserve component member by the Secretary concerned under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

''(i) REVOCABILITY OF ELECTION.—A reserve component member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's family members shall become eligible for benefits under the TRICARE program as provided for under this chapter.

''(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

''1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty.''.

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

SA 3259. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. MODIFICATION OF AUTHORITY FOR LAND CONVEYANCE, EQUIPMENT AND STORAGE YARD, CHARLESTON, SOUTH CAROLINA.

Section 563(h) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 360) is amended to read as follows:

''(h) CHARLESTON, SOUTH CAROLINA.—

''(1) IN GENERAL.—The Secretary may convey all right, title, and interest of the United States in and to a parcel of real property of the Corps of Engineers, together with any improvements thereon, that is known as the Equipment and Storage Yard and is located on Meeting Street in Charleston, South Carolina, in as-is condition.

''(2) CONSIDERATION.—As consideration for the conveyance of property under paragraph (1), the party to which such property is conveyed shall provide the United States, whether by cash payment, exchange of property or facilities, or a combination thereof, an amount that is not less than the fair market value of the property conveyed, as determined by the Secretary.

''(3) DISCHARGE OF AUTHORITY THROUGH DIVISION ENGINEER, SOUTH ATLANTIC DIVISION.—The Division Engineer, South Atlantic Division, may, on behalf of the United States, execute deeds of conveyance and accept the consideration described in paragraph (2) in connection with the conveyance of property under paragraph (1).

''(4) USE OF PROCEEDS.—Amounts received as consideration under this subsection may be used by the Corps of Engineers, Charleston District—

''(A) to cover costs associated with the lease, purchase, or construction of an office facility within the boundaries of Charleston, Berkeley, and Dorchester Counties, South Carolina, notwithstanding any requirements in the Plant Replacement and Improvement Program (PRIP), or existing PRIP balances;

''(B) to cover any of the costs previously incurred in connection with the move of the District Headquarters of the Charleston District; or

''(C) to cover any of the costs previously incurred in connection with the Equipment and Storage Yard.''.

SA 3260. Mr. WARNER (for himself, Mr. LEVIN, and Mr. STEVENS) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 239, between lines 2 and 3, insert the following:

SEC. 1006. AUTHORIZATION OF APPROPRIATIONS FOR A CONTINGENT EMERGENCY RESERVE FUND FOR OPERATIONS IN IRAQ AND AFGHANISTAN.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2005, subject to subsections (b) and (c), $25,000,000,000, to be available only for activities in support of operations in Iraq and Afghanistan.

(b) SPECIFIC AMOUNTS.—Of the amount authorized to be appropriated under subsection (a), funds are authorized to be appropriated in amounts for purposes as follows:

(1) For the Army for operation and maintenance, $14,000,000,000.

(2) For the Navy for operation and maintenance, $1,000,000,000.

(3) For the Marine Corps for operation and maintenance, $2,000,000,000.

(4) For the Air Force for operation and maintenance, $1,000,000,000.

(5) For operation and maintenance, Defense-wide activities, $2,000,000,000.

(6) For military personnel, $2,000,000,000.

(7) An additional amount of $3,000,000,000 to be available for transfer to—

(A) operation and maintenance accounts;

(B) military personnel accounts;

(C) research, development, test, and evaluation accounts;

(D) procurement accounts;

(E) classified programs; and

(F) Coast Guard operating expenses.

(c) AUTHORIZATION CONTINGENT ON BUDGET REQUEST.—The authorization of appropriations in subsection (a) shall be effective only to the extent that a budget request for all or part of the amount authorized to be appropriated under such subsection for the purposes set forth in such subsection is transmitted by the President to Congress after the date of the enactment of this Act and includes a designation of the requested amount as an emergency and essential to support activities in Iraq and Afghanistan.

(d) TRANSFER AUTHORITY.—(1) Of the amount authorized to be appropriated under subsection (b)(7) for transfer, no transfer may be made until the Secretary of Defense consults with the Chairmen and Ranking Members of the congressional defense committees and then notifies such committees in writing not later than five days before the transfer is made.

(2) The transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense.

(e) MONTHLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees each month a report on the use of funds authorized to be appropriated under this section. The report for a month shall include in a separate display for each of Iraq and Aghanistan, the activity for which the funds were used, the purpose for which the funds were used, the source of the funds used to carry out that activity, and the account to which those expenditures were charged.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 2, 2004, at 10:15 a.m., in closed session to receive a briefing on the situation in Iraq.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 2, 2004, at 10 a.m., to conduct a hearing on ''The Role of State Securities Regulators in Protecting Investors.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Commerce,

Science, and Transportation be authorized to meet Wednesday, June 2, 2004, at 9:30 a.m. on fire fighting aircraft.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Wednesday, June 2, 2004, at 2:30 p.m. on nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 2, 2003, at 9:30 a.m., to hold a hearing on the Greater Middle East Initiative.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 2, 2004 at 10 a.m. to hold a business meeting to consider pending Committee business.

AGENDA

Legislation

1. S. 2468, Postal Accountability and Enhancement Act.

2. S. 346, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

3. S. 1230, a bill to provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information.

4. S. 1292, Servitude and Emancipation Archival Research Clearinghouse Act of 2003.

5. S. 1358, Federal Employee Protection of Disclosures Act.

6. S. 2249, Emergency Food and Shelter Act of 2004.

7. S. 2322, a bill to amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long term care insurance for federal employees.

8. S. 2347, a bill to amend the District of Columbia Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act.

9. S. 2351, Emergency Medical Services Support Act.

10. S. 2409, a bill to provide for continued health benefits coverage for certain federal employees.

11. S. 2479, a bill to amend chapter 84 of title 5, United States Code, to provide for federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time.

12. H.R. 1303, a bill to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

Items for Approval

1. Committee Amendment to S. 1245, Homeland Security Grant Enhancement Act of 2003.

Post Office Naming Bills

1. S. 2017/H.R. 3742, a bill to designate the facility of the United States Postal Service, located at 93 Atocha Street in Ponce, Puerto Rico, as the ''Luis A. Ferre United States Courthouse and Post Office Building''.

2. S. 2214, a bill to designate the facility of the United States Postal Service, located at 3150 Great Northern Avenue in Missoula, Montana, as the ''Mike Mansfield Post Office''.

3. S. 2415, a bill to designate the facility of the United States Postal Service, located at 4141 Postmark Drive in Anchorage, Alaska, as the ''Robert J. Opinsky Post Office Building''.

4. H.R. 1822, a bill to designate the facility of the United States Postal Service, located at 3751 West 6th Street in Los Angeles, California, as the ''Dosan Ahn Chang Ho Post Office Building''.

5. H.R. 2130, a bill to designate the facility of the United States Postal Service, located at 121 Kinderkamack Road in River Edge, New Jersey, as the ''New Bridge Landing Post Office''.

6. H.R. 2438, a bill to designate the facility of the United States Postal Service, located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr., Post Office Building''.

7. H.R. 3029/S. 1596, a bill to designate the facility of the United States Postal Service, located at 225 North Main Street in Jonesboro, Georgia as the ''S. Truett Cathy Post Office Building''.

8. H.R. 3059, to designate the facility of the United States Postal Service, located at 304 West Michigan Street in Stuttgart, Arkansas, as the ''Lloyd L. Burke Post Office''.

9. H.R. 3068, to designate the facility of the United States Postal Service, located at 2055 Siesta Drive in Sarasota, Florida, as the ''Brigadier General (AUS-Ret.) John H. McLain Post Office''.

10. H.R. 3234/S. 1763, to designate the facility of the United States Postal Service, located at 14 Chestnut Street in Liberty, New York, as the ''Ben R. Gerow Post Office Building''.

11. H.R. 3300, to designate the facility of the United States Postal Service, located at 15500 Pearl Road in Strongsville, Ohio, as the ''Walter F. Ehrnfelt, Jr. Post Office Building''.

12. H.R. 3353, to designate the facility of the United States Postal Service, located at 525 Main Street in Tarboro, North Carolina, as the ''George Henry White Post Office Building''.

13. H.R. 3536, to designate the facility of the United States Postal Service, located at 210 Main Street in Malden, Illinois, as the ''Army Staff Sgt. Lincoln Hollinsaid Malden Post Office''.

14. H.R. 3537, to designate the facility of the United States Postal Service, located at 185 State Street in Manhattan, Illinois, as the ''Army Pvt. Shawn Pahnke Manhattan Post Office''.

15. H.R. 3538, to designate the facility of the United States Postal Service, located at 201 South Chicago Avenue in Saint Anne, Illinois, as the ''Marine Capt. Ryan Beaupre Saint Anne Post Office''.

16. H.R. 3690/S. 2104, a bill to designate the facility of the United States Postal Service, located at 2 West Main Street in Batavia, New York, as the ''Barber Conable Post Office Building''.

17. H.R. 3733, a bill to designate the facility of the United States Postal Service, located at 410 Huston Street in Altamont, Kansas, as the ''Myron V. George Post Office''.

18. H.R. 3740/S. 2153, to designate the facility of the United States Postal Service, located at 223 South Main Street in Roxboro, North Carolina, as the ''Oscar Scott Woody Post Office Building''.

19. H.R. 3769, to designate the facility of the United States Postal Service, located at 137 East Young High Pike in Knoxville, Tennessee, as the ''Ben Atchly Post Office Building''.

20. H.R. 3855/S. 2441, to designate the facility of the United States Postal Service, located at 607 Pershing Drive in Laclede, Missouri, as the ''General John J. Pershing Post Office''.

21. H.R. 3917/S. 2255, to designate the facility of the United States Postal Service, located at 695 Marconi Boulevard in Copiague, New York, as the ''Maxine S. Postal United States Post Office Building''.

22. H.R. 3939/S. 2291, to designate the facility of the United States Postal Service, located at 14–24 Abbott Road in Fair Lawn, New Jersey, as the ''Mary Ann Collura Post Office Building''.

23. H.R. 3942, to redesignate the facility of the United States Postal Service, located at 7 Commercial Boulevard in Middletown, Rhode Island, as the ''Rhode Island Veterans Post Office Building''.

24. H.R. 4037/S. 2442, to designate the facility of the United States Postal Service, located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the ''Richard G. Wilson Processing and Distribution Facility''.

25. H.R. 4176, to designate the facility of the United States Postal Service, located at 122 West Elwood Avenue in Raeford, North Carolina, as the ''Bobby Marshall Gentry Post Office Building''.

26. H.R. 4299, to designate the facility of the United States Postal Service, located at 410 South Jackson Road in Edinsburg, Texas, as the ''Dr. Miguel A. Nevarez Post Office Building''.

Nominations

1. Albert Casey, to be a Governor for the United States Postal Service.

2. James C. Miller, III, to be a Governor for the United States Postal Service.

3. David Safavian, to be Administrator for Federal Procurement Policy, Office of Management and Budget.

4. Dawn Tisdale, to be Commissioner, Postal Rate Commission.

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

SUBCOMMITTEE ON CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Constitution, Civil Rights and Property Rights be authorized to meet to conduct a markup on Tuesday, June 2, 2004 at 1:30 p.m. in Dirksen Senate Office Building Room 226.

Agenda

S. J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

Note: As agreed by Senators CORNYN and FEINGOLD, only amendments circulated to all other members of the subcommittee by 12:00 noon on Tuesday, June 1, 2004 shall be in order.

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

AMERICAN INDIAN PROBATE REFORM ACT OF 2004

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 515, S. 1721.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1721) to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1721

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

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''American Indian Probate Reform Act of 2003''.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the Act of February 8, 1887 (commonly known as the ''Indian General Allotment Act'') (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

[(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

[(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including

[(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

[(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

[(i) makes probate planning unnecessarily difficult; and

[(ii) impedes efforts to provide probate planning assistance or advice;

[(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

[(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

[(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

[(ii) makes probate planning more difficult; and

[(4) a uniform Federal probate code would likely—

[(A) reduce the number of fractionated interests in trust or restricted land;

[(B) facilitate efforts to provide probate planning assistance and advice;

[(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

[(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

[SEC. 3. INDIAN PROBATE REFORM.

[(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

[''(a) TESTAMENTARY DISPOSITION.—

[''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

[''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

[''(i) an Indian tribe with jurisdiction over the land; or

[''(ii) any Indian; or

[''(iii) any lineal descendant of the testator; or

[''(iv) any person who owns a preexisting undivided trust or restricted interest in the same parcel of land;

in trust or restricted status.

[''(B) RULE OF INTERPRETATION.—Any devise of an interest in trust or restricted land or personal property to a devisee listed in subparagraph (A) shall be considered to be a devise of the interest in trust or restricted status, unless—

[''(i) language in the will clearly evidences the testator's intent that the interest is to vest in the devisee as a fee interest without restrictions; or

[''(ii) the interest devised is a life estate.

[''(2) DEVISE OF TRUST OR RESTRICTED LAND AS A LIFE ESTATE OR IN FEE.—

[''(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

[''(i) as a life estate without regard to waste to any person, with the remainder being devised only in accordance with subparagraph (B) or paragraph (1); or

[''(ii) except as provided in subparagraph (B), in fee to any person.

[''(B) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

[''(i) that section;

[''(ii) subparagraph (A)(i); or

[''(iii) paragraph (1).

[''(3) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED PERSONAL PROPERTY.—

[''(A) TRUST OR RESTRICTED PERSONAL PROPERTY DEFINED.—The term 'Trust or restricted personal property' as used in this section includes—

[''(i) all funds and securities of any kind which are held in trust in an individual Indian money account or otherwise supervised for the decedent by the Secretary; and

[''(ii) absent clear evidence to the contrary, all personal property permanently affixed to trust or restricted lands.

[''(B) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of such trust or restricted personal property, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted personal property may devise such an interest to any person or entity.

[''(C) MAINTENANCE AS TRUST OR RESTRICTED PERSONAL PROPERTY.—Except as provided in paragraph (1)(B), where an interest in trust or restricted personal property is devised to a devisee listed in paragraph (1)(A), the Secretary shall maintain and continue to manage such interests as trust or restricted personal property.

[''(D) DIRECT DISBURSEMENT AND DISTRIBUTION.—In the case of a devise of an interest in trust or restricted personal property to a devisee not listed in paragraph (1)(A), the Secretary shall directly disburse and distribute such personal property to the devisee.

[''(4) INELIGIBLE DEVISEES OF TRUST OR RESTRICTED INTEREST; INVALID WILLS.—Any interest in trust or restricted land or personal property that is devised as a trust or restricted interest to a devisee not listed in subparagraph (A) of paragraph (1) shall descend to the devisee as a fee interest. Any interest in trust or restricted land or personal property that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (b).''.

[(b) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

[''(b) NONTESTAMENTARY DISPOSITION.—

[''(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted property, including personal property, that is not disposed of by a valid will—

[''(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

[''(B) in the case of an interest in trust or restricted property to which such a code does not apply, shall descend in accordance with—

[''(i) paragraphs (2) through (4); and

[''(ii) other applicable Federal law.

[''(2) RULES GOVERNING DESCENT OF ESTATE.—

[''(A) SURVIVING SPOUSE.—If there is a surviving spouse of the decedent, such spouse shall receive trust and restricted property in the estate as follows:

[''(i) If the decedent is survived by an heir described in subparagraph (B) (i), (ii), (iii), or

(iv), the surviving spouse shall receive ⅓ of the trust or restricted personal property of the decedent and a life estate without regard to waste in the interests in trust or restricted lands of the decedent.

''(ii) If there are no heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive all of the trust or restricted personal property of the decedent and a life estate without regard to waste in the trust or restricted lands.

''(iii) The remainder shall pass as set forth in subparagraph (B).

''(B) INDIAN HEIRS.—Where there is no surviving spouse of the decedent, or there is a remainder pursuant to subparagraph (A), the estate or remainder of the decedent shall, subject to subparagraph (A), pass as follows:

''(i) To the Indian children of the decedent (or if 1 or more of those Indian children do not survive the decedent, the Indian children of the deceased child of the decedent, by right of representation, if such Indian children of the child survive the decedent) in equal shares.

''(ii) If the property does not pass under clause (i), to the surviving Indian great-grandchildren of the decedent in equal shares.

''(iii) If the property does not pass under clause (i) or (ii), to the surviving Indian brothers and sisters who are full siblings of the decedent or who are half-siblings by blood and not by marriage, in equal shares.

''(iv) If the property does not pass under clause (i), (ii), or (iii), to the Indian parent or parents of the decedent in equal shares.

''(v) If the property does not pass under clause (i), (ii), (iii), or (iv), to the Indian tribe with jurisdiction over the interests in trust or restricted lands;

except that notwithstanding clause (v), an Indian co-owner (including the Indian tribe referred to in clause (v)) of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in the land; if more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall acquire the interest.

''(C) NO INDIAN TRIBE.—If there is no Indian tribe with jurisdiction over the interests in trust or restricted lands that would otherwise descend under subparagraph (B)(v), then such interests shall be divided equally among co-owners of trust or restricted interests in the parcel; if there are no such co-owners, then the Secretary shall accumulate and hold such interests in trust or restricted status for the Indian tribe or tribes from which the decedent descended.

''(3) RIGHT OF REPRESENTATION.—

''(A) IN GENERAL.—Subject to subparagraph (B)—

''(i) the interests passing to children and grandchildren of a decedent under paragraph (2) shall be divided into as many equal shares as there are surviving children of the decedent, deceased children who have died before the decedent without issue, and deceased children who have died before the decedent and have left grandchildren who survive the decedent; and

''(ii) 1 share shall pass to each surviving child of the decedent and 1 share shall pass equally divided among the surviving children of a deceased child.

''(B) EXCEPTION FOR HEIRS OF EQUAL CONSANGUINITY.—Notwithstanding subparagraph (A), when the persons entitled to take under subparagraph (B)(i) of paragraph (2) are all in the same degree of consanguinity to the decedent, they shall take in equal shares.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this subsection, if an individual fails to survive the decedent by at least 120 hours, as established by clear and convincing evidence—

''(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

''(B) the heirs of the decedent shall be determined in accordance with this section.

''(5) STATUS OF INHERITED INTERESTS.—A trust or restricted interest in land or personal property that descends under the provisions of this subsection (not including any interest in land or personal property passing to a surviving spouse under paragraph (2)(A)) shall continue to have the same trust or restricted status in the hands of the heir as such interest had immediately prior to the decedent's death.''.

(c) Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206 (c)) is amended by striking all that follows the heading, ''JOINT TENANCY; RIGHT OF SURVIVORSHIP'', and inserting the following: ''If a testator devises interests in the same parcel of trust or restricted lands to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create joint tenancy with the right of survivorship in the interests involved.''.

(d) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) APPLICABLE FEDERAL LAW.—

''(1) IN GENERAL.—Any references in subsections (a) and (b) to applicable Federal law include—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) NO EFFECT ON LAWS.—Nothing in this section amends or otherwise affects the application of any law described in paragraph (1), or any other Federal law that provides for the devise and descent of any trust or restricted land located on a specific Indian reservation or for the devise and descent of the allotted lands of a specific tribe or specific tribes.

''(i) RULES OF INTERPRETATION.—In the absence of a contrary intent, and except as otherwise provided under this Act or a tribal probate code approved by the Secretary pursuant to section 206, wills shall be construed as to trust and restricted land and personal property in accordance with the following rules:

''(1) CONSTRUCTION THAT WILL PASSES ALL PROPERTY.—A will shall be construed to apply to all trust and restricted land and personal property which the testator owned at his death, including any such land or property acquired after the execution of his will.

''(2) CLASS GIFTS.—

''(A) Terms of relationship that do not differentiate relationships by blood from those by affinity, such as 'uncles', 'aunts', 'nieces' or 'nephews', are construed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as 'brothers', 'sisters', 'nieces', or 'nephews', are construed to include both types of relationships.

''(B) MEANING OF 'HEIRS' AND 'NEXT OF KIN,' ETC; TIME OF ASCERTAINING CLASS.—A devise of trust or restricted land or trust funds to the testator's or another designated person's 'heirs', 'next of kin', 'relatives', or 'family' shall mean those persons, including the spouse, who would be entitled to take under the provisions of this Act for nontestamentary disposition. The class is to be ascertained as of the date of the testator's death.

''(C) TIME FOR ASCERTAINING CLASS.—In construing a devise to a class other than a class described in subparagraph (B), the class shall be ascertained as of the time the devise is to take effect in enjoyment. The surviving issue of any member of the class who is then dead shall take by right of representation the share which their deceased ancestor would have taken.

''(3) MEANING OF 'DIE WITHOUT ISSUE' AND SIMILAR PHRASES.—In any devise under this chapter, the words 'die without issue', 'die without leaving issue', 'have no issue', or words of a similar import shall be construed to mean that an individual had no lineal descendants in his lifetime or at his death, and not that there will be no lineal descendants at some future time.

''(4) PERSONS BORN OUT OF WEDLOCK.—In construing provisions of this chapter relating to lapsed and void devises, and in construing a devise to a person or persons described by relationship to the testator or to another, a person born out of wedlock shall be considered the child of the natural mother and also of the natural father.

''(5) LAPSED AND VOID DEVISES AND LEGACIES; SHARES NOT IN RESIDUE.—Where a devise of property that is not part of the residuary estate fails or becomes void because—

''(A) the beneficiary has predeceased the testator;

''(B) the devise has been revoked by the testator; or

''(C) the devise has been disclaimed by the beneficiary;

the property shall, if not otherwise expressly provided for under this Act or a tribal probate code, pass under the residuary clause, if any, contained in the will.

''(6) LAPSED AND VOID DEVISES AND LEGACIES; SHARES IN RESIDUE.—When a devise as described in paragraph (7) shall be included in a residuary clause of the will and shall not be available to the issue of the devisee, and if the disposition shall not be otherwise expressly provided for by a tribal probate code, it shall pass to the other residuary devisees, if any, in proportion to their respective shares or interests in the residue.

''(7) FAMILY CEMETERY PLOT.—If a family cemetery plot owned by the testator at his decease is not mentioned in the decedent's will, the ownership of the plot shall descend to his heirs as if he had died intestate.

''(8) AFTER-BORN HEIRS.—A child in gestation at the time of decedent's death will be treated as having survived the decedent if the child lives at least 120 hours after its birth.

''(9) ADVANCEMENTS OF TRUST OR RESTRICTED PERSONAL PROPERTY DURING LIFETIME; EFFECT ON DISTRIBUTION OF ESTATE.—

''(A) The trust or restricted personal property of a decedent who dies intestate as to all or a portion of his or her estate, given during the decedent's lifetime to an heir of the decedent, shall be treated as an advancement against the heir's inheritance, but only if the decedent declared in a contemporaneous writing, or the heir acknowledged in writing, that the gift is an advancement or is to be taken into account in computing the division and distribution of the decedent's intestate estate.

''(B) For the purposes of this section, trust or restricted personal property advanced during the decedent's lifetime is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

''(C) If the recipient of the property predeceases the decedent, the property is not treated as an advancement or taken into account in computing the division and distribution of the decedent's intestate estate

unless the decedent's contemporaneous writing provides otherwise.

[''(10) HEIRS RELATED TO DECEDENT THROUGH 2 LINES; SINGLE SHARE.—A person who is related to the decedent through 2 lines of relationship is entitled to only a single share based on the relationship that would entitle the person to the larger share.

[''(j) HEIRSHIP BY KILLING.—

[''(1) 'HEIR BY KILLING' DEFINED.—As used in this subsection, 'heir by killing' means any person who participates, either as a principal or as an accessory before the fact, in the willful and unlawful killing of the decedent.

[''(2) NO ACQUISITION OF PROPERTY BY KILLING.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, no heir by killing shall in any way acquire any interests in trust or restricted property as the result of the death of the decedent, but such property shall pass in accordance with this subsection.

[''(3) DESCENT, DISTRIBUTION, AND RIGHT OF SURVIVORSHIP.—The heir by killing shall be deemed to have predeceased the decedent as to decedent's interests in trust or restricted property which would have passed from the decedent or his estate to the heir by killing—

[''(A) under intestate succession under this chapter;

[''(B) under a tribal probate code, unless otherwise provided for;

[''(C) as the surviving spouse;

[''(D) by devise;

[''(E) as a reversion or a vested remainder;

[''(F) as a survivorship interest; and

[''(G) as a contingent remainder or executory or other future interest.

[''(4) JOINT TENANTS, JOINT OWNERS, AND JOINT OBLIGEES.—

[''(A) Any trust or restricted land or personal property held by only the heir by killing and the decedent as joint tenants, joint owners, or joint obligees shall pass upon the death of the decedent to his or her estate, as if the heir by killing had predeceased the decedent.

[''(B) As to trust or restricted property held jointly by 3 or more persons, including both the heir by killing and the decedent, any income which would have accrued to the heir by killing as a result of the death of the decedent shall pass to the estate of the decedent as if the heir by killing had predeceased the decedent and any surviving joint tenants.

[''(C) Notwithstanding any other provision of this subsection, the decedent's interest in trust or restricted property that is held in a joint tenancy with the right of survivorship shall be severed from the joint tenancy as though the property held in the joint tenancy were to be severed and distributed equally among the joint tenants and the decedent's interest shall pass to his estate; the remainder of the interests shall remain in joint tenancy with right of survivorship among the surviving joint tenants.

[''(5) LIFE ESTATE FOR THE LIFE OF ANOTHER.—If the estate is held by a third person whose possession expires upon the death of the decedent, it shall remain in such person's hands for the period of the life expectancy of the decedent.

[''(6) PREADJUDICATION RULE.—

[''(A) IN GENERAL.—If a person has been charged, whether by indictment, information, or otherwise by the United States, a tribe, or any State, with voluntary manslaughter or homicide in connection with a decedent's death, then any and all trust or restricted land or personal property that would otherwise pass to that person from the decedent's estate shall not pass or be distributed by the Secretary until the charges have been resolved in accordance with the provisions of this paragraph.

[''(B) DISMISSAL OR WITHDRAWAL.—Upon dismissal or withdrawal of the charge, or upon a verdict of not guilty, such land and funds shall pass as if no charge had been filed or made.

[''(C) CONVICTION.—Upon conviction of such person, the trust and restricted land and personal property in the estate shall pass in accordance with this subsection.

[''(7) BROAD CONSTRUCTION; POLICY OF SUBSECTION.—This subsection shall not be considered penal in nature, but shall be construed broadly in order to effect the policy that no person shall be allowed to profit by his own wrong, wherever committed.

[''(k) GENERAL RULES GOVERNING PROBATE.—

[''(1) SCOPE.—The provisions of this subsection shall apply only to estates that are subject to probate under the provisions of subsections (a) and (b).

[''(2) PRETERMITTED SPOUSES AND CHILDREN.—

[''(A) SPOUSES.—

[''(i) IN GENERAL.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have received if the testator had died intestate.

[''(ii) EXCEPTION.—Clause (i) shall not apply to an interest in trust or restricted land where—

[''(I) the will of a testator is executed before the date of enactment of this subparagraph;

[''(II)(aa) the spouse of a testator is a non-Indian; and

[''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

[''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

[''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

[''(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

[''(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

[''(iii) SPOUSES MARRIED AT THE TIME OF THE WILL.—Should the surviving spouse of the testator be omitted from the will of the testator, the surviving spouse shall be treated, for purposes of trust or restricted land or personal property in the testator's estate, as though there was no will under the provisions of section 207(b)(2)(A) if—

[''(I) the testator and surviving spouse were continuously married without legal separation for the 10-year period preceding the decedent's death;

[''(II) the testator and surviving spouse have a surviving child who is the child of the testator;

[''(III) the surviving spouse has made substantial payments on or improvements to the trust or restricted land in such estate; or

[''(IV) the surviving spouse is under a binding obligation to continue making loan payments for the trust or restricted land for a substantial period of time;

except that if there is evidence that the testator adequately provided for the surviving spouse and any minor children by a transfer of funds or property outside of the will, this clause shall not apply.

[''(iv) DEFINED TERMS.—The terms 'substantial payments or improvements' and 'substantial period of time' as used in subparagraph (A)(iii) (III) and (IV) shall have the meanings given to them in the regulations adopted by the Secretary under the provisions of this Act.

[''(B) CHILDREN.—

[''(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the intestate interests of the decedent in trust or restricted land as if the decedent had died intestate.

[''(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

[''(iii) ADOPTED-OUT CHILDREN.—

[''(I) IN GENERAL.—For purposes of this Act, an adopted person shall not be considered the child or issue of his natural parents, except in distributing the estate of a natural kin, other than the natural parent, who has maintained a family relationship with the adopted person. If a natural parent shall have married the adopting parent, the adopted person for purposes of inheritance by, from and through him shall also be considered the issue of such natural parent.

[''(II) ELIGIBLE HEIR PURSUANT TO OTHER FEDERAL LAW OR TRIBAL LAW.—Notwithstanding the provisions of subparagraph (B)(iii)(I), other Federal laws and laws of the Indian tribe with jurisdiction over the trust or restricted land may otherwise define the inheritance rights of adopted-out children.

[''(3) DIVORCE.—

[''(A) SURVIVING SPOUSE.—

[''(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

[''(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

[''(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) prevents an entity responsible for adjudicating an interest in trust or restricted land from giving effect to a property right settlement if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

[''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

[''(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, as of the effective date of the divorce or annulment, any disposition of interests in trust or restricted land made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

[''(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

[''(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

[''(4) NOTICE.—

[''(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

[''(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under section 207(g).''.

[SEC. 4. PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.

[Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

[''(c) PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.—

[''(1) APPLICABILITY.—This subsection shall be applicable only to parcels of land (including surface and subsurface interests, except with respect to a subsurface interest that has been severed from the surface interest, in which case this subsection shall apply only to the surface interest) which the Secretary has determined, pursuant to paragraph (2)(B), to be parcels of highly fractionated Indian land.

[''(2) REQUIREMENTS.—Subject to section 223 of this Act, but notwithstanding any other provision of law, the Secretary shall ensure that each partition action meets the following requirements:

[''(A) REQUEST.—The Secretary shall commence a process for partitioning a parcel of land by sale in accordance with the provisions of this subsection upon receipt of an application by—

[''(i) the Indian tribe with jurisdiction over the subject land that owns an undivided interest in the parcel of land; or

[''(ii) any person owning an undivided trust or restricted interest in the parcel of land.

[''(B) DETERMINATION.—Upon receipt of an application pursuant to subparagraph (A), the Secretary shall determine whether the subject parcel meets the requirements set forth in section 202(6) (25 U.S.C. 2201(6)) to be classified as a parcel of highly fractionated Indian land.

[''(C) CONSENT REQUIREMENTS.—A parcel of land may be partitioned under this subsection only with the written consent of—

[''(i) the Indian tribe with jurisdiction over the subject land if such Indian tribe owns an undivided interest in the parcel;

[''(ii) any owner who, for the 3-year period immediately preceding the date on which the Secretary receives the application, has—

[''(I) continuously maintained a bona fide residence on the parcel; or

[''(II) continuously operated a bona fide farm, ranch, or other business on the parcel; and

[''(iii) the owners of at least 50 percent of the undivided interests in the parcel if, based on the final appraisal prepared pursuant to subparagraph (F), the Secretary determines that any person's undivided trust or restricted interest in the parcel has a value in excess of $1,000, except that the Secretary may consent on behalf of undetermined heirs, minors, and legal incompetents having no legal guardian, and missing owners or owners whose whereabouts are unknown but only after a search for such owners has been completed in accordance with the provisions of this subsection.

[''(D) PRELIMINARY APPRAISAL.—After the Secretary has determined that the subject parcel is a parcel of highly fractionated Indian land pursuant to subparagraph (B), the Secretary shall cause a preliminary appraisal of the subject parcel to be made.

[''(E) NOTICE TO OWNERS ON COMPLETION OF PRELIMINARY APPRAISAL.—Upon completion of the preliminary appraisal, the Secretary shall give written notice of the requested partition and preliminary appraisal to all owners of undivided interests in the parcel, in accordance with the following requirements:

[''(i) CONTENTS OF NOTICE.—The notice required by this subsection shall state—

[''(I) that a proceeding to partition the parcel of land by sale has been commenced;

[''(II) the legal description of the subject parcel;

[''(III) the owner's ownership interest in the subject parcel;

[''(IV) the results of the preliminary appraisal;

[''(V) the owner's right to request a copy of the preliminary appraisal;

[''(VI) the owner's right to comment on the proposed partition and the preliminary appraisal;

[''(VII) the date by which the owner's comments must be received, which shall not be less than 60 days after the date that the notice is mailed or published under paragraph (2); and

[''(VIII) the address for requesting copies of the preliminary appraisal and for submitting written comments.

[''(ii) MANNER OF SERVICE.—

[''(I) SERVICE BY MAIL.—The Secretary shall attempt to provide all owners of interests in the subject parcel with actual notice of the partition proceeding by mailing a copy of the written notice described in clause (i) by first class mail to each such owner at the owner's last known address. In the event the written notice to an owner is returned undelivered, the Secretary shall, in accordance with regulations adopted to implement the provisions of this section, attempt to obtain a current address for such owner by inquiring with—

[''(aa) the owner's relatives, if any are known;

[''(bb) the Indian tribe of which the owner is a member; and

[''(cc) the Indian tribe with jurisdiction over the subject parcel.

[''(II) SERVICE BY PUBLICATION.—In the event that the Secretary is unable to serve the notice by mail pursuant to subclause (II), the notice shall be served by publishing the notice 2 times in a newspaper of general circulation in the county or counties where the subject parcel of land is located.

[''(F) FINAL APPRAISAL.—After reviewing and considering comments or information submitted by any owner of an interest in the parcel in response to the notice required under subparagraph (E), the Secretary may—

[''(i) modify the preliminary appraisal and, as modified, determine it to be the final appraisal for the parcel; or

[''(ii) determine that preliminary appraisal should be the final appraisal for the parcel, without modifications.

[''(G) NOTICE TO OWNERS ON DETERMINATION OF FINAL APPRAISAL.—Upon making the determination under subparagraph (F) the Secretary shall provide to each owner of the parcel of land and the Indian tribe with jurisdiction over the subject land, written notice served in accordance with subparagraph (E)(ii) stating—

[''(i) the results of the final appraisal;

[''(ii) the owner's right to review a copy of the appraisal upon request; and

[''(iii) that the land will be sold in accordance with subparagraph (G) for not less than the final appraised value subject to the consent requirements under paragraph (2)(C).

[''(H) SALE.—Subject to the requirements of paragraph (2)(C), the Secretary shall—

[''(i) provide every owner of the parcel of land and the Indian tribe with jurisdiction over the subject land with notice that—

[''(I) the decision to partition by sale is final; and

[''(II) each owner has the right to appeal the determination of the Secretary to partition the parcel of land by sale, including the right to appeal the final appraisal;

[''(ii) after providing public notice of the sale pursuant to regulations adopted by the Secretary to implement this subsection, offer to sell the land by competitive bid for not less than the final appraised value to the highest bidder from among the following eligible bidders:

[''(I) any owner of a trust or restricted interest in the parcel being sold;

[''(II) the Indian tribe, if any, with jurisdiction over the parcel being sold; and

[''(III) any member of the Indian tribe described in subclause (II); and

[''(iii) if no bidder described in clause (ii) presents a bid that equals or exceeds the appraised value, provide notice to the owners of the parcel of land and terminate the partition process.

[''(I) DECISION NOT TO SELL.—If the required owners do not consent to the partition by sale of the parcel of land, in accordance with paragraph (2)(C), by a date established by the Secretary, the Secretary shall provide each Indian tribe with jurisdiction over the subject land and each owner notice of that fact.

[''(3) ENFORCEMENT.—

[''(A) IN GENERAL.—If a partition is approved under this subsection and an owner of an interest in the parcel of land refuses to surrender possession in accordance with the partition decision, or refuses to execute any conveyance necessary to implement the partition, then any affected owner or the United States may—

[''(i) commence a civil action in the United States district court for the district in which the parcel of land is located; and

[''(ii) request that the court issue an appropriate order for the partition of the land in kind or by sale.

[''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

[''(i) the United States—

[''(I) shall receive notice of the civil action; and

[''(II) may be a party to the civil action; and

[''(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is 1 against the United States or that the United States is an indispensable party.

[''(4) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this subsection.''.

[SEC. 5. OWNER-MANAGED INTERESTS.

[The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

["SEC. 221. OWNER-MANAGED INTERESTS.

[''(a) PURPOSE.—The purpose of this section is to provide a means for the co-owners of trust or restricted interests in a parcel of land to enter into surface leases of such parcel without approval of the Secretary.

[''(b) MINERAL INTERESTS.—Nothing in this section shall be construed to limit or otherwise affect the application of any Federal law requiring the Secretary to approve mineral leases or other agreements for the development of the mineral interest in trust or restricted land.

[''(c) OWNER MANAGEMENT.—

[''(1) IN GENERAL.—Notwithstanding any provision of Federal law requiring the Secretary to approve individual Indian leases or mortgages of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary pursuant to subsection (a), and the Secretary has approved such applications under subsection (d), such owners may, without further approval by the Secretary, do either of the following with respect to their interest in such parcel:

[''(A) Enter into a lease of the parcel for any purpose authorized by section 1 of the

Act of August 9, 1955 (25 U.S.C. 415(a)), for an initial term not to exceed 25 years.

[''(B) Renew any lease described in paragraph (1) for 1 renewal term not to exceed 25 years.

[''(2) RULE OF CONSTRUCTION.—No such lease or renewal of a lease shall be effective until the owners of all undivided trust or restricted interests in the parcel have executed such lease or renewal.

[''(d) APPROVAL OF APPLICATIONS FOR OWNER MANAGEMENT.—

[''(1) IN GENERAL.—Subject to the provisions of paragraph (2), the Secretary shall approve an application for owner management submitted by a qualified applicant pursuant to this section unless the Secretary has reason to believe that the applicant is submitting the application as the result of fraud or undue influence.

[''(2) COMMENCEMENT OF OWNER-MANAGEMENT STATUS.—Notwithstanding the approval of 1 or more applications pursuant to paragraph (1), no interest in a parcel of trust or restricted land shall have owner-management status until applications for all of the trust or restricted interests in such parcel have been submitted and approved by the Secretary pursuant to this section and in accordance with regulations adopted pursuant to subsection (l).

[''(e) VALIDITY OF LEASES.—A lease of trust or restricted interests in a parcel of land that is owner-managed under this section that violates any requirement or limitation set forth in subsection (c) shall be null and void and unenforceable against the owners of such interests, or against the land, the interest or the United States.

[''(f) LEASE REVENUES.—The Secretary shall not be responsible for the collection of, or accounting for, any lease revenues accruing to any interests subject to this section while such interest is in owner-management status under the provisions of this section.

[''(g) JURISDICTION.—

[''(1) JURISDICTION UNAFFECTED BY STATUS.—The Indian tribe with jurisdiction over an interest in trust or restricted land that becomes owner-managed in accordance with this section shall continue to have jurisdiction over the interest in trust or restricted land to the same extent and in all respects the tribe had prior to the interest acquiring owner managed status.

[''(2) PERSONS USING LAND.—Any person holding, leasing, or otherwise using such interest in land shall be considered to consent to the jurisdiction of the Indian tribe with jurisdiction over the interest, including such tribe's laws and regulations, if any, relating to the use, and any effects associated with the use, of the interest.

[''(h) CONTINUATION OF OWNER-MANAGED STATUS; REVOCATION.—

[''(1) IN GENERAL.—Subject to the provisions of paragraph (2), after the applications of the owners of all of the trust or restricted interests in a parcel of land have been approved by the Secretary pursuant to subsection (d), each such interest shall continue in owner-managed status under this section notwithstanding any subsequent conveyance of the interest in trust or restricted status to another person or the subsequent descent of the interest in trust or restricted status by testate or intestate succession to 1 or more heirs.

[''(2) REVOCATION.—Owner-managed status of an interest may be revoked upon written request of owners (including the parents or legal guardians of minors or incompetent owners) of all trust or restricted interests in the parcel, submitted to the Secretary in accordance with regulations adopted under subsection (l). The revocation shall become effective as of the date on which the last of all such requests have been delivered to the Secretary.

[''(3) EFFECT OF REVOCATION.—Revocation of owner-managed status under paragraph (2) shall not affect the validity of any lease made in accordance with the provisions of this section prior to the effective date of the revocation, provided that, after such revocation becomes effective, the Secretary shall be responsible for the collection of, and accounting for, all future lease revenues accruing to the trust or restricted interests in the parcel from and after such effective date.

[''(i) DEFINED TERMS.—

[''(1) For purposes of subsection (d)(1), the term 'qualified applicant' means—

[''(A) a person over the age of 18 who owns a trust or restricted interest in a parcel of land; and

[''(B) the parent or legal guardian of a minor or incompetent person who owns a trust or restricted interest in a parcel of land.

[''(2) For purposes of this section, the term 'owner-managed status' means, with respect to a trust or restricted interest, that the interest—

[''(A) is a trust or restricted interest in a parcel of land for which applications covering all trust or restricted interests in such parcel have been submitted to and approved by the Secretary pursuant to subsection (d);

[''(B) may be leased without approval of the Secretary pursuant to, and in a manner that is consistent with the requirements of, this section; and

[''(C) no revocation has occurred under subsection (h)(2).

[''(j) SECRETARIAL APPROVAL OF OTHER TRANSACTIONS.—Except with respect to the specific lease transactions described in paragraphs (1) and (2) of subsection (c), interests held in owner-managed status under the provisions of this section shall continue to be subject to all Federal laws requiring the Secretary to approve transactions involving trust or restricted land that would otherwise apply to such interests.

[''(k) EFFECT OF SECTION.—Subject to subsections (c), (f), and (h), nothing in this section limits or otherwise affects any authority or responsibility of the Secretary with respect to an interest in trust or restricted land.

[''(l) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.''.

[SEC. 6. ADDITIONAL AMENDMENTS.

[(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

[(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

[(2) in section 205 (25 U.S.C. 2204), by adding subsection (c) as follows:

[''(c) PURCHASE OPTION AT PROBATE.—

[''(1) IN GENERAL.—Subject to section 207(b)(2)(A) of this Act (25 U.S.C. 2206(b)(2)(A)), interests in a parcel of trust or restricted land in the decedent's estate may be purchased at probate in accordance with the provisions of this subsection.

[''(2) SALE OF INTEREST AT MINIMUM FAIR MARKET VALUE.—Subject to paragraph (3), the Secretary is authorized to sell trust or restricted interests subject to this subsection at no less than fair market value to the highest bidder from among the following eligible bidders:

[''(A) The heirs taking by intestate succession or the devisees listed in section 207(a)(1)(A).

[''(B) All persons who own undivided trust or restricted interests in the same parcel of land involved in the probate proceeding.

[''(C) The Indian tribe with jurisdiction over the interest, or the Secretary on behalf of such Indian tribe.

[''(3) REQUEST FOR AUCTION.—No auction and sale of an interest in probate shall occur under this subsection unless—

[''(A) except as provided in paragraph (6), the heirs or devises of such interest consent to the sale; and

[''(B) a person or the Indian tribe eligible to bid on the interest under paragraph (2) submits a request for the auction prior to the distribution of the interest to heirs or devisees of the decedent and in accordance with any regulations of the Secretary.

[''(4) APPRAISAL AND NOTICE.—Prior to the sale of an interest pursuant to this subsection, the Secretary shall—

[''(A) appraise the interest; and

[''(B) publish notice of the time and place of the auction (or the time and place for submitting sealed bids), a description, and the appraised value, of the interest to be sold.

[''(5) RIGHTS OF SURVIVING SPOUSE.—Nothing in this subsection shall be construed to diminish or otherwise affect the rights of a surviving spouse under section 207(b)(2)(A).

[''(6) HIGHLY FRACTIONATED INDIAN LANDS.—Notwithstanding paragraph (3)(A), the consent of an heir shall not be required for the auction and sale of an interest at probate under this subsection if—

[''(A) the interest is passing by intestate succession; and

[''(B) prior to the auction the Secretary determines that the interest involved is an interest in a parcel of highly fractionated Indian land.

[''(7) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of this subsection.'';

[(3) in section 206 (25 U.S.C. 2205)—

[(A) in subsection (a), by striking paragraph (3) and inserting the following:

[''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prohibits the devise of an interest in trust or restricted land by—

[''(A) an Indian lineal descendant of the original allottee; or

[''(B) an Indian who is not a member of the Indian tribe with jurisdiction over such an interest;

unless the code provides for—

[''(i) the renouncing of interests to eligible devisees in accordance with the code;

[''(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate without regard to waste; and

[''(iii) payment of fair market value in the manner prescribed under subsection (c)(2).''; and

[(B) in subsection (c)—

[(i) in paragraph (1)—

[(I) by striking the paragraph heading and inserting the following:

[''(1) AUTHORITY.—

[''(A) IN GENERAL.—'';

[(II) in the first sentence of subparagraph (A) (as redesignated by clause (i)), by striking ''section 207(a)(6)(A) of this title'' and inserting ''section 207(a)(2)(A)(ii) of this title''; and

[(III) by striking the last sentence and inserting the following:

[''(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.''; and

[(ii) in paragraph (2)—

[(I) in subparagraph (A)—

[(aa) by striking the subparagraph heading and all that follows through ''Paragraph (1) shall not apply'' and inserting the following:

[''(A) INAPPLICABILITY TO CERTAIN INTERESTS.—

[''(i) IN GENERAL.—Paragraph (1) shall not apply'';

[(bb) in clause (i) (as redesignated by item (aa)), by striking ''if, while'' and inserting the following: ''if—

[''(I) while'';

[(cc) by striking the period at the end and inserting ''; or''; and

[(dd) by adding at the end the following:

[''(II)—

[''(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

[''(bb) the devisee agrees that the Indian tribe with jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

[''(ii) RECORDING OF INTEREST.—On request by an Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

[''(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) prevents or limits the ability of an owner of land to which that clause applies to mortgage the land or limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

[''(iv) DEFINITION OF 'MEMBER OF THE FAMILY'.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

[''(I) a lineal descendant of a decedent or landowner;

[''(II) a lineal descendant of the grandparent of a decedent or landowner;

[''(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

[''(IV) the spouse of a decedent or landowner.'';

[(4) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B) of this title'' and inserting ''paragraph (1)'';

[(5) in section 207 (25 U.S.C. 2206), subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

[(6) in section 213 (25 U.S.C. 2212)—

[(A) by striking the section heading and inserting the following:

["SEC. 2212. FRACTIONAL INTEREST ACQUISITION PROGRAM.";

[(B) in subsection (a)—

[(i) by striking ''(2) AUTHORITY OF SECRETARY.—'' and all that follows through ''the Secretary shall submit'' and inserting the following:

[''(2) AUTHORITY OF SECRETARY.—The Secretary shall submit''; and

[(ii) by striking ''whether the program to acquire fractional interests should be extended or altered to make resources'' and inserting ''how the fractional interest acquisition program should be enhanced to increase the resources made'';

[(C) in subsection (b), by striking paragraph (4) and inserting the following:

[''(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

[''(A) conveyance documents;

[''(B) administrative proceedings; and

[''(C) transactions.''.

[(D) in subsection (c)—

[(i) in paragraph (1)—

[(I) in subparagraph (A), by striking ''at least 5 percent of the'' and inserting in its place ''an'';

[(II) in subparagraph (A), by inserting ''in such parcel'' following ''the Secretary shall convey an interest'';

[(III) in subparagraph (A), by striking ''landowner upon payment'' and all that follows and inserting the following: ''landowner—

[''(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

[''(ii) if—

[''(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

[''(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.''; and

[(IV) in subparagraph (B), by inserting before the period at the end the following: ''unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)''; and

[(ii) in paragraph (3), by striking ''10 percent or more of the undivided interests'' and inserting ''an undivided interest'';

[(7) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

[''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PROGRAM.—

[''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

[''(2) REQUIREMENTS.—

[''(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

[''(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

[''(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

[''(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

[''(3) REMOVAL OF LIENS AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

[''(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

[''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

[''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

[''(4) REMOVAL OF LIENS UPON PAYMENT INTO THE ACQUISITION FUND.—The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215 of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

[''(5) OTHER REMOVAL OF LIENS.—In accordance with regulations to be promulgated by the Secretary, and in consultation with tribal governments and other entities described in section 213(b)(3), the Secretary shall periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.'';

[(8) in section 216 (25 U.S.C. 2215)—

[(A) in subsection (a), by striking paragraph (2) and inserting the following:

[''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

[(B) in subsection (b)—

[(i) in paragraph (1)—

[(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

[(II) in subparagraph (A), by striking ''and'' at the end;

[(III) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

[(IV) by adding at the end the following:

[''(C) be used to acquire undivided interests on the reservation from which the income was derived.''; and

[(ii) by striking paragraph (2) and inserting the following:

[''(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.'';

[(9) in section 217 (25 U.S.C. 2216)—

[(A) in subsection (b)(1) by striking subparagraph (B) and inserting a new subparagraph (B) as follows—

[''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of an interest in trust or restricted land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

[''(i) to an Indian person who is the owner's spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or

[''(ii) to an Indian co-owner or to a tribe with jurisdiction over the subject parcel of land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.''.

[(B) in subsection (e), by striking the matter preceding paragraph (1), and inserting ''Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to—'';

[(C) in subsection (e)(1), by striking ''Indian'';

[(D) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,''; and

[(E) by striking subsection (f) and inserting the following:

[''(f) PURCHASE OF LAND BY INDIAN TRIBE.—

[''(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the

Indian tribe with jurisdiction over the parcel shall have the opportunity—

[''(A) to match any offer contained in the application; or

[''(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

[''(2) EXCEPTION FOR FAMILY FARMS.—

[''(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if the conveyance requires that in the event that the interest is offered for sale to an entity that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).

[''(B) APPLICABILITY OF OTHER PROVISION.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).''; and

[(10) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking ''100'' and inserting ''90''.

[(b) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

[(1) by striking paragraph (2) and inserting the following:

[''(2) 'Indian' means—

[''(A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of the date of enactment of the American Indian Probate Reform Act of 2003) of an interest in trust or restricted land;

[''(B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder;

[''(C) any person not included in subparagraph (A) or (B) who is a lineal descendant within 3 degrees of a person described in subparagraph (A);

[''(D) an owner of a trust or restricted interest in a parcel of land for purposes of inheriting another trust or restricted interest in such parcel; and

[''(E) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person who meets the definition of 'Indians of California' contained in the first section of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress in accordance with section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679)(b)).''; and

[(2) by adding at the end the following:

[''(6) 'Parcel of highly fractionated Indian land' means a parcel of land that the Secretary, pursuant to authority under a provision of this Act, determines to have at the time of the determination—

[''(A)(i) 100 or more but less than 200 co-owners of undivided trust or restricted interests; and

[''(ii) no undivided trust or restricted interest owned by any 1 person which represents more than 2 percent of the total undivided ownership of the parcel; or

[''(B)(i) 200 or more but less than 350 co-owners of undivided trust or restricted interests; and

[''(ii) no undivided trust or restricted interest owned by any 1 person which represents more than 5 percent of the total undivided ownership of the parcel; or

[''(C) 350 or more co-owners of undivided trust or restricted interests.

[''(7) 'Person' means a natural person.''.

[(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: '*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:''.

[(d) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by—

[(1) striking '', in accordance with'' and all that follows through ''or in which the subject matter of the corporation is located,'';

[(2) striking '', except as provided by the Indian Land Consolidation Act'' and all that follows through the colon; and

[(3) inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

[(e) ESTATE PLANNING.—

[(1) CONDUCT OF ACTIVITIES.—Section 207(f)(1) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking paragraph (1) and inserting the following—

[''(1) IN GENERAL.—

[''(A) The activities conducted under this subsection shall be conducted in accordance with any applicable—

[''(i) tribal probate code; or

[''(ii) tribal land consolidation plan.

[''(B) The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.''.

[(2) REQUIREMENTS.—Section 207(f) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)) is amended by striking ''and'' at the end of subparagraph (A), redesignating subparagraph (B) as subparagraph (D), and adding the following—

[''(B) dramatically increase the use of wills and other methods of devise among Indian landowners;

[''(C) substantially reduce the quantity and complexity of Indian estates that pass intestate through the probate process, while protecting the rights and interests of Indian landowners; and''; and

[(3) by striking ''(3) CONTRACTS.—'' and inserting the following—

[''(3) INDIAN CIVIL LEGAL ASSISTANCE GRANTS.—In carrying out this section, the Secretary shall award grants to nonprofit entities, as defined under section 501(c)(3) of the Internal Revenue Code of 1986, which provide legal assistance services for Indian tribes, individual owners of interests in trust or restricted lands, or Indian organizations pursuant to Federal poverty guidelines which submit an application to the Secretary, in such form and manner as the Secretary may prescribe, for the provision of civil legal assistance to such Indian tribes, individual owners, and Indian organizations for the development of tribal probate codes, for estate planning services or for other purposes consistent with the services they provide to Indians and Indian tribes.''; and

[(4) by adding at the end of section 207 (25 U.S.C. 2206) the following:

[''(k) NOTIFICATION TO LANDOWNERS.—

[''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide to each Indian landowner a report that lists, with respect to each tract of trust or restricted land in which the Indian landowner has an interest—

[''(A) the location of the tract of land involved;

[''(B) the identity of each other co-owner of interests in the parcel of land; and

[''(C) the percentage of ownership of each owner of an interest in the tract.

[''(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall preclude any individual Indian from obtaining from the Secretary, upon the request of that individual, any information specified in paragraph (1) before the expiration of the 2-year period specified in paragraph (1).

[''(3) REQUIREMENTS FOR NOTIFICATION.—Each notification made under paragraph (1) shall include information concerning estate planning and land consolidation options under the provisions of this Act and other applicable Federal law, including information concerning—

[''(A) the preparation and execution of wills;

[''(B) negotiated sales;

[''(C) gift deeds;

[''(D) exchanges; and

[''(E) life estates without regard to waste.

[''(4) PROHIBITION.—No individual Indian may be denied access to information relating to land in which that individual has an interest described in this section on the basis of section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act').

[''(l) PRIVATE AND FAMILY TRUSTS PILOT PROJECT.—

[''(1) DEVELOPMENT PILOT PROJECT.—

[''(A) The Secretary shall consult with tribes, individual landowner organizations, Indian advocacy organizations, and other interested parties to—

[''(i) develop a pilot project for the creation and management of private and family trusts for interests in trust or restricted lands; and

[''(ii) develop proposed rules, regulations, and guidelines to implement the pilot project.

[''(B) The pilot project shall commence on the date of enactment of the American Indian Probate Reform Act of 2003 and shall continue for 3 years after the date of enactment of this subsection.

[''(2) CHARACTERISTICS OF PRIVATE AND FAMILY TRUSTS.—For purposes of this subsection and any proposed rules, regulations, or guidelines developed under this subsection—

[''(A) the terms 'private trust' and 'family trust' shall both mean trusts created pursuant to this subsection for the management and administration of interests in trust or restricted land, held by 1 or more persons, which comprise the corpus of a trust, by a private trustee subject to the approval of the Secretary;

[''(B) private and family trusts shall be created and managed in furtherance of the purposes of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

[''(C) private and family trusts shall not be construed to impair, impede, replace, abrogate, or modify in any respect the trust duties or responsibilities of the Secretary, nor shall anything in this subsection or in any rules, regulations, or guidelines developed under this subsection enable any private or family trustee of interests in trust or restricted lands to exercise any powers over such interests greater than that held by the Secretary with respect to such interests.

[''(3) REPORT TO CONGRESS.—Prior to the expiration of the pilot project provided for under this subsection, the Secretary shall submit a report to Congress stating—

[''(A) a description of the Secretary's consultation with Indian tribes, individual landowner associations, Indian advocacy organizations, and other parties consulted with regarding the development of rules, regulations, and/or guidelines for the creation and management of private and family trusts over interests in trust and restricted lands;

[''(B) the feasibility of accurately tracking such private and family trusts;

[''(C) the impact that private and family trusts would have with respect to the accomplishment of the goals of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

[''(D) a final recommendation regarding whether to adopt the creation of a permanent private and family trust program as a management and consolidation measure for interests in trust or restricted lands.''.

[SEC. 7. UNCLAIMED AND ABANDONED PROPERTY.

[The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (as amended by section 5) is amended by adding at the end the following:

[''SEC. 222. UNCLAIMED AND ABANDONED PROPERTY.

[''(a) INTERESTS PRESUMED ABANDONED.—An undivided trust or restricted interest in a parcel of land owned by a person shall be presumed abandoned and subject to the provisions of this section if the Secretary makes a determination that—

[''(1) a period of 6 consecutive years next preceding such determination has passed during which the person owning such interest has not made any indication or expression of interest in the trust or restricted interest as set forth in subsection (b);

[''(2) the person owning the trust or restricted interest was, at all times during the 6-year period described in paragraph (1), over the age of 18; and

[''(3) as of the expiration of the 6-year period described in paragraph (1), such parcel was a parcel of highly fractionated Indian land.

[''(b) INDICATORS OF OWNER INTEREST.—For purposes of subsection (a), an indication or expression of an owner's interest in the property shall mean the owner or any person acting on behalf of the owner—

[''(1) making a deposit to, withdrawal from, or inquiry into an individual Indian money account associated with such interest;

[''(2) negotiating a Treasury check derived from such interest or account;

[''(3) providing the Secretary with a valid address; or

[''(4) communicating with the Secretary regarding such interest or account.

[''(c) RELATED PROPERTY.—At the time that property is presumed to be abandoned under this section, any other property right accrued or accruing to the owner as a result of the interest, including funds in an associated individual Indian money account, that has not previously been presumed abandoned under this section, also shall be presumed abandoned.

[''(d) ANNUAL LIST OF PROPERTY; NOTICE TO OWNERS.—No later than the first day of November of each year, the Secretary shall prepare and distribute a list of names of persons owning property presumed abandoned under this section during the preceding fiscal year and provide notice to such persons in accordance with the following requirements:

[''(1) CONTENTS OF ANNUAL LIST.—The list shall set forth—

[''(A) the names of all persons owning interests in land and property presumed to be abandoned under this section;

[''(B) with respect to each person named on the list, the reservation, if any, and the county and State in which the person's interest in land is located;

[''(C) the reservation, if any, the city or town, county and State of the person's last known address; and

[''(D) the name, address, and telephone number of the official or officials within the Department of the Interior to contact for purposes of identifying persons or lands included on the list.

[''(2) DISTRIBUTION OF LIST.—The list shall be distributed to all regional offices and agencies of the Bureau of Indian Affairs and to all reservations where land described on this list is located and shall cause the list to be published in the Federal Register within 15 days after the list is prepared.

[''(3) NOTICE BY MAIL.—In addition to publishing and distributing the list described in paragraph (1), the Secretary shall attempt to provide the persons owning such trust or restricted interests with actual written notice that the interest and any associated funds or property is presumed abandoned under the provisions of this section. Such notice shall be sent by first class mail to the owner at the owner's last known address and shall include the following:

[''(A) A legal description of the parcel of which the interest is a part.

[''(B) A description of the owner's interest.

[''(C) A statement that the owner has not indicated or expressed an interest in the trust or restricted interest for a period of 6 consecutive years and that such interest, and any funds in an associated individual Indian money account, is presumed abandoned.

[''(D) A statement that the interest will be appraised and sold for its appraised value unless the owner responds to the notice within 60 days after the notice is mailed or published.

[''(E) A statement that in the event the owner fails to respond and the notice and the property is sold, the proceeds of such sale and any funds in any associated individual Indian money account will be deposited in an unclaimed property account.

[''(4) SEARCH FOR WHEREABOUTS OF OWNER.—If the notice described in paragraph (3) is returned undelivered, the Secretary shall attempt to locate the owner by—

[''(A) searching publicly available records and Federal records, including telephone and address directories and using electronic search methods;

[''(B) inquiring with—

[''(i) the owner's relatives, if any are known;

[''(ii) any Indian tribe of which the owner is a member; and

[''(iii) the Indian tribe, if any, with jurisdiction over the interest; and

[''(C) if the value of the interest and any funds in an associated individual Indian money account exceeds $1,000, engaging an independent search firm to perform a missing person search.

[''(5) NOTICE BY PUBLICATION.—In the event that the Secretary is unable to locate the owner pursuant to paragraph (4), the Secretary shall publish a notice not later than November 30 following the fiscal year in which the property was presumed to be abandoned under this section. The notice shall include the same information required for the notice described in paragraph (3) and shall be—

[''(A) published in a newspaper of general circulation on or near the apparent owner's home reservation and near the last known address of the owner; and

[''(B) in a form that is likely to attract the attention of the apparent owner of the property.

[''(e) CONVERSION OF ABANDONED INTERESTS.—If, after 2 years from the date the notice is published under subsection (d)(3), any such real property or interest therein remains unclaimed, the Secretary shall appraise such property in a manner consistent with section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) and shall purchase the property at its appraised value, or sell the property to an Indian tribe with jurisdiction over such property or a person who owns an undivided trust or restricted interest in such property, by competitive bid for not less than the appraised value. The Secretary shall then transfer any monetary interest that the Secretary holds for the previous apparent owner to the unclaimed property account described in subsection (f).

[''(f) UNCLAIMED PROPERTY ACCOUNT.—

[''(1) Except as otherwise provided by this section, the Secretary shall promptly deposit in a special unclaimed property account all funds received under this section. The Secretary shall pay all claims under subsection (g) from this account. The Secretary shall record the name and last known address of each person appearing to be entitled to the property.

[''(2) The Secretary is authorized to use interest earned on the special unclaimed property account to pay—

[''(A) the administrative costs of conversion of real property under subsection (g); and

[''(B) costs of mailing and publication in connection with abandoned property.

[''(3) The Secretary shall retain a sufficient balance in the account at all times from which to pay claims duly allowed. All other funds shall be available to the Secretary to use for the purposes of land consolidation pursuant to 25 U.S.C. 2212.

[''(g) CLAIMS.—

[''(1) FILING OF CLAIM.—An individual, or the heirs of an individual, may file a claim to recover property or the proceeds of the conversion of the property on a form prescribed by the Secretary.

[''(2) ALLOWANCE OR DENIAL OF CLAIM.—Not more than 180 days after a claim is filed, the Secretary shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Secretary shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Secretary or maintain an action under this subsection.

[''(3) PAYMENT OF ALLOWED CLAIM.—Not more than 60 days after a claim is allowed, the property or the net proceeds of the conversion of the property shall be delivered or paid by the Secretary to the claimant, together with any interest, or other increment to which the claimant is entitled under this section.

[''(4) JUDICIAL REVIEW.—An individual aggrieved by a decision of the Secretary under this subsection or whose claim has not been acted upon within 180 days may, after exhausting administrative remedies, seek—

[''(A) judicial review or other appropriate relief against the Secretary in a United States district court, which may include an order quieting beneficial title in the name of petitioner whose property was sold by the Secretary in violation of this section; and

[''(B) recover reasonable attorneys fees if he is the prevailing party.

[''(h) VOLUNTARY ABANDONMENT.—Any person who is an owner of an interest subject to this section may, with the Secretary's approval, voluntarily abandon that interest to the benefit of the tribe with jurisdiction over the parcel of land or a co-owner of a trust or restricted interest in the same parcel of land in accordance with regulations adopted pursuant to subsection (j).

[''(i) TRANSFER OF ABANDONED INTERESTS IN LAND.—

[''(1) Any interest in land acquired under subsection (e) or (h) over which an Indian tribe has jurisdiction shall be held in trust by the Secretary for the benefit of that tribe, provided that the tribe may decline any such property in its discretion, and provided that if the tribe declines or does not currently own any interest within that parcel a co-owner with a majority interest shall have the first right of purchase of the property at the appraised price.

[''(2) Any interest in real property acquired under subsection (e) or (h) that is not subject to the jurisdiction of an Indian tribe shall be held in trust by the Secretary for all of the other co-owners of undivided trust or restricted interests in the parcel in proportion to their respective interests in the property, provided that any owner may decline to accept such interest, in which case that interest shall be allocated proportionately among such other co-owners who do not decline.

[''(3) The Indian tribe or other subsequent owner described in paragraph (2) takes such interest free of all claims by the owner who abandoned the interest and of all persons claiming through or under such owner.

[''(j) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this section.''.

[SEC. 8. MISSING HEIRS.

[Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding the following:

[''(m) NOTICE.—Prior to holding a hearing to determine the heirs to trust or restricted property, or making a decision determining such heirs, the Secretary shall seek to provide actual written notice of the proceedings to all heirs, including notice of the provisions of this subsection and of section 207(n) of this Act. Such efforts shall include—

[''(1) a search of publicly available records and Federal records, including telephone and address directories and including electronic search methods;

[''(2) an inquiry with family members and co-heirs of the property;

[''(3) an inquiry with the tribal government of which the owner is a member, and the tribal government with jurisdiction over the property, if any; and

[''(4) if the property is of a value greater than $1,000, an independent firm shall be contracted to conduct a missing persons search.

[''(n) MISSING HEIRS.—

[''(1) For purposes of this subsection and subsection (m), an heir will be presumed missing if his whereabouts remain unknown 60 days after completion of notice efforts under subsection (m) and they have had no contact with other heirs or the Department for 6 years prior to a hearing or decision to ascertain heirs.

[''(2) Before the date for declaring an heir missing, any person may request an extension of time to locate an heir. An extension may be granted for good cause.

[''(3) An heir shall be declared missing only after a review of the efforts made and a finding that this section has been complied with.

[''(4) A missing heir shall be presumed to have predeceased the decedent for purposes of descent and devise.''.

[SEC. 9. ANNUAL NOTICE AND FILING REQUIREMENT FOR OWNERS OF INTERESTS IN TRUST OR RESTRICTED LANDS.

[The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (as amended by section 7) is amended by adding at the end the following:

[''SEC. 222. ANNUAL NOTICE AND FILING; CURRENT WHEREABOUTS OF INTEREST OWNERS.

[''(a) IN GENERAL.—On an annual basis, the Secretary shall send a notice, response form, and a change of name and address form to each owner of an interest in trust or restricted land. The notice shall inform owners of their interest and obligation to provide the Secretary with a notice of any change in their name or address immediately upon such change. The response form should include a section in which the owner may confirm or update his name and address. The change of name and address form may be used by the owner at any time when his name or address changes subsequent to his annual filing of the response form.

[''(b) OWNER RESPONSE.—The owner of an interest in trust or restricted land shall file the response form upon receipt to confirm or update his name and address on an annual basis.

[''(c) NO RESPONSE; INITIATION OF SEARCH.—In the event that an owner does not file the response form or provide the Secretary with a confirmation or update of his name and address through other means, the Secretary shall initiate a search in order to ascertain the whereabouts and status of the owner.''.

[SEC. 10. EFFECTIVE DATE.

[The amendments made by this Act shall not apply to the estate of an individual who dies before the later of—

[(1) the date that is 1 year after the date of enactment of this Act; or

[(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Indian Probate Reform Act of 2004''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the ''Indian General Allotment Act'') (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including—

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult;

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice and create incentives for owners of trust and restricted land to engage in estate planning;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land; and

(5) the provisions of a uniform Federal probate code and other forth in this Act should operate to further the policy of the United States as stated in the Indian Land Consolidated Act Amendments of 2000, Public Law 106–462, 102, November 7, 2000, 114 Stat. 1992.

SEC. 3. INDIAN PROBATE REFORM.

(a) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

''(a) NONTESTAMENTARY DISPOSITION.—

''(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any trust or restricted interest in land or interest in trust personalty that is not disposed of by a valid will—

''(A) shall descend according to an applicable tribal probate code approved in accordance with section 206; or

''(B) in the case of a trust or restricted interest in land or interest in trust personalty to which a tribal probate code does not apply, shall descend in accordance with—

''(i) paragraphs (2) through (5); and

''(ii) other applicable Federal law.

''(2) RULES GOVERNING DESCENT OF ESTATE.—

''(A) SURVIVING SPOUSE.—If there is a surviving spouse of the decedent, such spouse shall receive trust and restricted land and trust personalty in the estate as follows:

''(i) If the decedent is survived by 1 or more eligible heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive ½ of the trust personalty of the decedent and a life estate without regard to waste in the interests in trust or restricted lands of the decedent.

''(ii) If there are no eligible heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive all of the trust personalty of the decedent and a life estate without regard to waste in the trust or restricted lands of the decedent.

''(iii) The remainder shall pass as set forth in subparagraph (B).

''(iv) Trust personalty passing to a surviving spouse under the provisions of this subparagraph shall be maintained by the Secretary in an account as trust personalty, but only if such spouse is Indian.

''(B) INDIVIDUAL AND TRIBAL HEIRS.—Where there is no surviving spouse of the decedent, or there is a remainder interest pursuant to subparagraph (A), the trust or restricted estate or such remainder shall, subject to subparagraphs (A) and (D), pass as follows:

''(i) To those of the decedent's children who are eligible heirs (or if 1 or more of such children do not survive the decedent, the children of any such deceased child who are eligible heirs, by right of representation, but only if such children of the deceased child survive the decedent) in equal shares.

''(ii) If the property does not pass under clause (i), to those of the decedent's surviving great-grandchildren who are eligible heirs, in equal shares.

''(iii) If the property does not pass under clause (i) or (ii), to the decedent's surviving parent who is an eligible heir, and if both parents survive the decedent and are both eligible heirs, to both parents in equal shares.

''(iv) If the property does not pass under clause (i), (ii), or (iii), to those of the decedent's surviving siblings who are eligible heirs, in equal shares.

''(v) If the property does not pass under clause (i), (ii), (iii), or (iv), to the Indian tribe with jurisdiction over the interests in trust or restricted lands;

except that notwithstanding clause (v), an Indian co-owner (including the Indian tribe referred to in clause (v)) of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying

into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in the land; if more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall acquire the interest.

''(C) NO INDIAN TRIBE.—

''(i) IN GENERAL.—If there is no Indian tribe with jurisdiction over the interests in trust or restricted lands that would otherwise descend under subparagraph (B)(v), then such interests shall be divided equally among co-owners of trust or restricted interests in the parcel; if there are no such co-owners, then to the United States, provided that any such interests in land passing to the United States under this subparagraph shall be sold by the Secretary and the proceeds from such sale deposited into the land acquisition fund established under section 216 (25 U.S.C. 2215) and used for the purposes described in subsection (b) of that section.

''(ii) CONTIGUOUS PARCEL.—If the interests passing to the United States under this subparagraph are in a parcel of land that is contiguous to another parcel of trust or restricted land, the Secretary shall give the owner or owners of the trust or restricted interest in the contiguous parcel the first opportunity to purchase the interest at not less than fair market value determined in accordance with this Act. If more than 1 such owner in the contiguous parcel request to purchase the parcel, the Secretary shall sell the parcel by public auction or sealed bid (as determined by the Secretary) at not less than fair market value to the owner of a trust or restricted interest in the contiguous parcel submitting the highest bid.

''(D) INTESTATE DESCENT OF SMALL FRACTIONAL INTERESTS IN LAND.—

''(i) GENERAL RULE.—Notwithstanding subparagraphs (A) and (B), and subject to any applicable Federal law, any trust or restricted interest in land in the decedent's estate that is not disposed of by a valid will and represents less than 5 percent of the entire undivided ownership of the parcel of land of which such interest is a part, as evidenced by the decedent's estate inventory at the time of the heirship determination, shall descend in accordance with clauses (ii) through (iv).

''(ii) SURVIVING SPOUSE.—If there is a surviving spouse, and such spouse was residing on a parcel of land described in clause (i) at the time of the decedent's death, the spouse shall receive a life estate without regard to waste in the decedent's trust or restricted interest in only such parcel, and the remainder interest in that parcel shall pass in accordance with clause (iii).

''(iii) SINGLE HEIR RULE.—Where there is no life estate created under clause (ii) or there is a remainder interest under that clause, the trust or restricted interest or remainder interest that is subject to this subparagraph shall descend, in trust or restricted status, to—

''(I) the decedent's surviving child, but only if such child is an eligible heir; and if 2 or more surviving children are eligible heirs, then to the oldest of such children;

''(II) if the interest does not pass under subclause (I), the decedent's surviving grandchild, but only if such grandchild is an eligible heir; and if 2 or more surviving grandchildren are eligible heirs, then to the oldest of such grandchildren;

''(III) if the interest does not pass under subclause (I) or (II), the decedent's surviving great grandchild, but only if such great grandchild is an eligible heir; and if 2 or more surviving great grandchildren are eligible heirs, then to the oldest of such great grandchildren;

''(IV) if the interest does not pass under subclause (I), (II), or (III), the Indian tribe with jurisdiction over the interest; or

''(V) if the interest does not pass under subclause (I), (II), or (III), and there is no such Indian tribe to inherit the property under subclause (IV), the interest shall be divided equally among co-owners of trust or restricted interests in the parcel; and if there are no such co-owners, then to the United States, to be sold, and the proceeds from sale used, in the same manner provided in subparagraph (C).

The determination of which person is the oldest eligible heir for inheritance purposes under this clause shall be made by the Secretary in the decedent's probate proceeding and shall be consistent with the provisions of this Act.

''(iv) EXCEPTIONS.—Notwithstanding clause (iii)—

''(I)(aa) the heir of an interest under clause (iii), unless the heir is a minor or incompetent person, may agree in writing entered into the record of the decedent's probate proceeding to renounce such interest, in trust or restricted status, in favor of—

''(AA) any other eligible heir or Indian person related to the heir by blood, but in any case never in favor of more than 1 such heir or person;

''(BB) any co-owner of another trust or restricted interest in such parcel of land; or

''(CC) the Indian tribe with jurisdiction over the interest, if any; and

''(bb) the Secretary shall give effect to such agreement in the distribution of the interest in the probate proceeding; and

''(II) the governing body of the Indian tribe with jurisdiction over an interest in trust or restricted land that is subject to the provisions of this subparagraph may adopt a rule of intestate descent applicable to such interest that differs from the order of decedent set forth in clause (iii). The Secretary shall apply such rule to the interest in distributing the decedent's estate, but only if—

''(aa) a copy of the tribal rule is delivered to the official designated by the Secretary to receive copies of tribal rules for the purposes of this clause;

''(bb) the tribal rule provides for the intestate inheritance of such interest by no more than 1 heir, so that the interest does not further fractionate;

''(cc) the tribal rule does not apply to any interest disposed of by a valid will;

''(dd) the decedent died on or after the date described in subsection (b) of section 8 of the American Indian Probate Act of 2004, or on or after the date on which a copy of the tribal rule was delivered to the Secretary pursuant to item (aa), whichever is later; and

''(ee) the Secretary does not make a determination within 90 days after a copy of the tribal rule is delivered pursuant to item (aa) that the rule would be unreasonably difficult to administer or does not conform with the requirements in item (bb) or (cc).

''(v) RULE OF CONSTRUCTION.—This subparagraph shall not be construed to limit a person's right to devise any trust or restricted interest by way of a valid will in accordance with subsection (b).

''(3) RIGHT OF REPRESENTATION.—If, under this subsection, all or any part of the estate of a decedent is to pass to children of a deceased child by right of representation, that part is to be divided into as many equal shares as there are living children of the decedent and pre-deceased children who left issue who survive the decedent. Each living child of the decedent, if any, shall receive 1 share, and the share of each pre-deceased child shall be divided equally among the pre-deceased child's children.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this subsection, if an individual fails to survive the decedent by at least 120 hours, as established by clear and convincing evidence—

''(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

''(B) the heirs of the decedent shall be determined in accordance with this section.

''(5) STATUS OF INHERITED INTERESTS.—Except as provided in paragraphs (2) (A) and (D) regarding the life estate of a surviving spouse, a trust or restricted interest in land or trust personalty that descends under the provisions of this subsection shall vest in the heir in the same trust or restricted status as such interest was held immediately prior to the decedent's death.''.

(b) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

''(b) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of a trust or restricted interest in land may devise such interest to—

''(i) any lineal descendant of the testator;

''(ii) any person who owns a preexisting undivided trust or restricted interest in the same parcel of land;

''(iii) the Indian tribe with jurisdiction over the interest in land; or

''(iv) any Indian;

in trust or restricted status.

''(B) RULES OF INTERPRETATION.—Any devise of a trust or restricted interest in land pursuant to subparagraph (A) to an Indian or the Indian tribe with jurisdiction over the interest shall be deemed to be a devise of the interest in trust or restricted status. Any devise of a trust or restricted interest in land to a person who is only eligible to be a devisee under clause (i) or (ii) of subparagraph (A) shall be presumed to be a devise of the interest in trust or restricted status unless language in such devise clearly evidences an intent on the part of the testator that the interest is to pass as a life estate or fee interest in accordance with paragraph (2)(A).

''(2) DEVISE OF TRUST OR RESTRICTED LAND AS A LIFE ESTATE OR IN FEE.—

''(A) IN GENERAL.—Except as provided under any applicable Federal law, any trust or restricted interest in land that is not devised in accordance with paragraph (1)(A) may be devised only—

''(i) as a life estate to any person, with the remainder being devised only in accordance with subparagraph (B) or paragraph (1); or

''(ii) except as provided in subparagraph (B), as a fee interest without Federal restrictions against alienation to any person who is not eligible to be a devisee under clause (iv) of paragraph (1)(A).

''(B) INDIAN REORGANIZATION ACT LANDS.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

''(i) that section;

''(ii) subparagraph (A)(i); or

''(iii) paragraph (1)(A);

provided that nothing in this section or in section 4 of the Act of June 18, 1934 (25 U.S.C. 464), shall be construed to authorize the devise of any interest in trust or restricted land that is subject to section 4 of that Act to any person as a fee interest under subparagraph (A)(ii).

''(3) GENERAL DEVISE OF AN INTEREST IN TRUST PERSONALTY.—

''(A) TRUST PERSONALITY DEFINED.—The term 'trust personalty' as used in this section includes all funds and securities of any kind which are held in trust in an individual Indian money account or otherwise supervised by the Secretary.

''(B) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of such trust personalty, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust personalty may devise such an interest to any person or entity.

''(C) MAINTENANCE AS TRUST PERSONALTY.—In the case of a devise of an interest in trust personalty to a person or Indian tribe eligible to be

a devisee under paragraph (1)(A), the Secretary shall maintain and continue to manage such interests as trust personalty.

''(D) DIRECT DISBURSEMENT AND DISTRIBUTION.—In the case of a devise of an interest in trust personalty to a person or Indian tribe not eligible to be a devisee under paragraph (1)(A), the Secretary shall directly disburse and distribute such personalty to the devisee.

''(4) INVALID DEVISES AND WILLS.—

''(A) LAND.—Any trust or restricted interest in land that is not devised in accordance with paragraph (1) or (2) or that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (a).

''(B) PERSONALTY.—Any trust personalty that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (a).''.

(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206(c)) is amended by striking all that follows the heading, ''Joint Tenancy; Right of Survivorship'', and inserting the following:

''(1) PRESUMPTION OF JOINT TENANCY.—If a testator devises trust or restricted interests in the same parcel of land to more than 1 person, in the absence of clear and express language in the devise stating that the interest is to pass to the devisees as tenants in common, the devise shall be presumed to create a joint tenancy with the right of survivorship in the interests involved.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any devise of an interest in trust or restricted land where the will in which such devise is made was executed prior to the date that is 1 year after the date on which the Secretary publishes the certification required by section 8(a)(4) of the American Indian Probate Reform Act of 2004.''.

(d) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) APPLICABLE FEDERAL LAW.—

''(1) IN GENERAL.—Any references in subsections (a) and (b) to applicable Federal law include—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) NO EFFECT ON LAWS.—Nothing in this Act amends or otherwise affects the application of any law described in paragraph (1), or any other Federal law that pertains to—

''(A) trust or restricted land located on 1 or more specific Indian reservations that are expressly identified in such law; or

''(B) the allotted lands of 1 or more specific Indian tribes that are expressly identified in such law.

''(i) RULES OF INTERPRETATION.—In the absence of a contrary intent, and except as otherwise provided under this Act, applicable Federal law, or a tribal probate code approved by the Secretary pursuant to section 206, wills shall be construed as to trust and restricted land and trust personalty in accordance with the following rules:

''(1) CONSTRUCTION THAT WILL PASSES ALL PROPERTY.—A will shall be construed to apply to all trust and restricted land and trust personalty which the testator owned at his death, including any such land or personalty acquired after the execution of his will.

''(2) CLASS GIFTS.—

''(A) NO DIFFERENTIATION BETWEEN RELATIONSHIP BY BLOOD AND RELATIONSHIP BY AFFINITY.—Terms of relationship that do not differentiate relationships by blood from those by affinity, such as 'uncles', 'aunts', 'nieces', or 'nephews', are construed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as 'brothers', 'sisters', 'nieces', or 'nephews', are construed to include both types of relationships.

''(B) MEANING OF 'HEIRS' AND 'NEXT OF KIN', ETC.; TIME OF ASCERTAINING CLASS.—A devise of trust or restricted interest in land or an interest in trust personalty to the testator's or another designated person's 'heirs', 'next of kin', 'relatives', or 'family' shall mean those persons, including the spouse, who would be entitled to take under the provisions of this Act for nontestamentary disposition. The class is to be ascertained as of the date of the testator's death.

''(C) TIME FOR ASCERTAINING CLASS.—In construing a devise to a class other than a class described in subparagraph (B), the class shall be ascertained as of the time the devise is to take effect in enjoyment. The surviving issue of any member of the class who is then dead shall take by right of representation the share which their deceased ancestor would have taken.

''(3) MEANING OF 'DIE WITHOUT ISSUE' AND SIMILAR PHRASES.—In any devise under this chapter, the words 'die without issue', 'die without leaving issue', 'have no issue', or words of a similar import shall be construed to mean that an individual had no lineal descendants in his lifetime or at his death, and not that there will be no lineal descendants at some future time.

''(4) PERSONS BORN OUT OF WEDLOCK.—In construing provisions of this chapter relating to lapsed and void devises, and in construing a devise to a person or persons described by relationship to the testator or to another, a person born out of wedlock shall be considered the child of the natural mother and also of the natural father.

''(5) LAPSED DEVISES.—Subject to the provisions of subsection (b), where the testator devises or bequeaths a trust or restricted interest in land or trust personalty to the testator's grandparents or to the lineal descendent of a grandparent, and the devisee or legatee dies before the testator leaving lineal descendents, such descendents shall take the interest so devised or bequeathed per stirpes.

''(6) VOID DEVISES.—Except as provided in paragraph (5), and if the disposition shall not be otherwise expressly provided for by a tribal probate code approved under section 206 (25 U.S.C. 2205), if a devise other than a residuary devise of a trust or restricted interest in land or trust personalty fails for any reason, such interest shall become part of the residue and pass, subject to the provisions of subsection (b), to the other residuary devisees, if any, in proportion to their respective shares or interests in the residue.

''(7) FAMILY CEMETERY PLOT.—If a family cemetery plot owned by the testator at his decease is not mentioned in the decedent's will, the ownership of the plot shall descend to his heirs as if he had died intestate.

''(j) HEIRSHIP BY KILLING.—

''(1) HEIR BY KILLING DEFINED.—As used in this subsection, 'heir by killing' means any person who knowingly participates, either as a principal or as an accessory before the fact, in the willful and unlawful killing of the decedent.

''(2) NO ACQUISITION OF PROPERTY BY KILLING.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, no heir by killing shall in any way acquire any trust or restricted interests in land or interests in trust personalty as the result of the death of the decedent, but such property shall pass in accordance with this subsection.

''(3) DESCENT, DISTRIBUTION, AND RIGHT OF SURVIVORSHIP.—The heir by killing shall be deemed to have predeceased the decedent as to decedent's trust or restricted interests in land or trust personalty which would have passed from the decedent or his estate to such heir—

''(A) under intestate succession under this section;

''(B) under a tribal probate code, unless otherwise provided for;

''(C) as the surviving spouse;

''(D) by devise;

''(E) as a reversion or a vested remainder;

''(F) as a survivorship interest; and

''(G) as a contingent remainder or executory or other future interest.

''(4) JOINT TENANTS, JOINT OWNERS, AND JOINT OBLIGEES.—

''(A) Any trust or restricted land or trust personalty held by only the heir by killing and the decedent as joint tenants, joint owners, or joint obligees shall pass upon the death of the decedent to his or her estate, as if the heir by killing had predeceased the decedent.

''(B) As to trust or restricted land or trust personalty held jointly by 3 or more persons, including both the heir by killing and the decedent, any income which would have accrued to the heir by killing as a result of the death of the decedent shall pass to the estate of the decedent as if the heir by killing had predeceased the decedent and any surviving joint tenants.

''(C) Notwithstanding any other provision of this subsection, the decedent's trust or restricted interest land or trust personalty that is held in a joint tenancy with the right of survivorship shall be severed from the joint tenancy as though the property held in the joint tenancy were to be severed and distributed equally among the joint tenants and the decedent's interest shall pass to his estate; the remainder of the interests shall remain in joint tenancy with right of survivorship among the surviving joint tenants.

''(5) LIFE ESTATE FOR THE LIFE OF ANOTHER.—If the estate is held by a third person whose possession expires upon the death of the decedent, it shall remain in such person's hands for the period of time following the decedent's death equal to the life expectancy of the decedent but for the killing.

''(6) PREADJUDICATION RULE.—

''(A) IN GENERAL.—If a person has been charged, whether by indictment, information, or otherwise by the United States, a tribe, or any State, with voluntary manslaughter or homicide in connection with a decedent's death, then any and all trust or restricted land or trust personalty that would otherwise pass to that person from the decedent's estate shall not pass or be distributed by the Secretary until the charges have been resolved in accordance with the provisions of this paragraph.

''(B) DISMISSAL OR WITHDRAWAL.—Upon dismissal or withdrawal of the charge, or upon a verdict of not guilty, such land and personalty shall pass as if no charge had been filed or made.

''(C) CONVICTION.—Upon conviction of such person, and the exhaustion of all appeals, if any, the trust and restricted land and trust personalty in the estate shall pass in accordance with this subsection.

''(7) BROAD CONSTRUCTION; POLICY OF SUBSECTION.—This subsection shall not be considered penal in nature, but shall be construed broadly in order to effect the policy that no person shall be allowed to profit by his own wrong, wherever committed.

''(k) GENERAL RULES GOVERNING PROBATE.—

''(1) SCOPE.—Except as provided under applicable Federal law or a tribal probate code approved under section 206, the provisions of this subsection shall govern the probate of estates containing trust and restricted interests in land or trust personalty.

''(2) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—

''(i) IN GENERAL.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in the decedent's trust or restricted land and trust personalty that the spouse would have received if the testator had died intestate.

''(ii) EXCEPTION.—Clause (i) shall not apply to a trust or restricted interest land where—

''(I) the will of a testator is executed before the date of enactment of this subparagraph;

''(II)(aa) the spouse of a testator is a non-Indian; and

''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

''(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

''(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

''(iii) SPOUSES MARRIED AT THE TIME OF THE WILL.—Should the surviving spouse of the testator be omitted from the will of the testator, the surviving spouse shall be treated, for purposes of trust or restricted land or trust personalty in the testator's estate, in accordance with the provisions of section 207(a)(2)(A), as though there was no will but only if—

''(I) the testator and surviving spouse were continuously married without legal separation for the 5-year period preceding the decedent's death;

''(II) the testator and surviving spouse have a surviving child who is the child of the testator;

''(III) the surviving spouse has made substantial payments toward the purchase of, or improvements to, the trust or restricted land in such estate; or

''(IV) the surviving spouse is under a binding obligation to continue making loan payments for the trust or restricted land for a substantial period of time;

except that, if there is evidence that the testator adequately provided for the surviving spouse and any minor children by a transfer of funds or property outside of the will, this clause shall not apply.

''(B) CHILDREN.—

''(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the trust or restricted interests in land and trust personalty as if the decedent had died intestate.

''(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

''(iii) ADOPTED-OUT CHILDREN.—

''(I) IN GENERAL.—For purposes of this Act, an adopted person shall not be considered the child or issue of his natural parents, except in distributing the estate of a natural kin, other than the natural parent, who has maintained a family relationship with the adopted person. If a natural parent shall have married the adopting parent, the adopted person for purposes of inheritance by, from and through him shall also be considered the issue of such natural parent.

''(II) ELIGIBLE HEIR PURSUANT TO OTHER FEDERAL LAW OR TRIBAL LAW.—Notwithstanding the provisions of subparagraph (B)(iii)(I), other Federal laws and laws of the Indian tribe with jurisdiction over the trust or restricted interest in land may otherwise define the inheritance rights of adopted-out children.

''(3) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

''(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

''(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) shall prevent the Secretary from giving effect to a property right settlement relating to a trust or restricted interest in land or an interest in trust personalty if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

''(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, as of the effective date of the divorce or annulment, any disposition of trust or restricted interests in land or of trust personalty made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

''(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

''(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

''(4) AFTER-BORN HEIRS.—A child in gestation at the time of decedent's death will be treated as having survived the decedent if the child lives at least 120 hours after its birth.

''(5) ADVANCEMENTS OF TRUST PERSONALTY DURING LIFETIME; EFFECT ON DISTRIBUTION OF ESTATE.—

''(A) The trust personalty of a decedent who dies intestate as to all or a portion of his or her estate, given during the decedent's lifetime to a person eligible to be an heir of the decedent under subsection (b)(2)(B), shall be treated as an advancement against the heir's inheritance, but only if the decedent declared in a contemporaneous writing, or the heir acknowledged in writing, that the gift is an advancement or is to be taken into account in computing the division and distribution of the decedent's intestate estate.

''(B) For the purposes of this section, trust personalty advanced during the decedent's lifetime is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

''(C) If the recipient of the trust personalty predeceases the decedent, the property shall not be treated as an advancement or taken into account in computing the division and distribution of the decedent's intestate estate unless the decedent's contemporaneous writing provides otherwise.

''(6) HEIRS RELATED TO DECEDENT THROUGH 2 LINES; SINGLE SHARE.—A person who is related to the decedent through 2 lines of relationship is entitled to only a single share of the trust or restricted land or trust personalty in the decedent's estate based on the relationship that would entitle such person to the larger share.

''(7) NOTICE.—

''(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

''(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under subsection (a) of section 8 of the American Indian Probate Reform Act of 2004.

''(8) RENUNCIATION OR DISCLAIMER OF INTERESTS.—

''(A) IN GENERAL.—Any person 18 years of age or older may renounce or disclaim an inheritance of a trust or restricted interest in land or in trust personalty through intestate succession or devise, either in full or subject to the reservation of a life estate (where the interest is an interest in land), in accordance with subparagraph (B), by filing a signed and acknowledged declaration with the probate decisionmaker prior to entry of a final probate order. No interest so renounced or disclaimed shall be considered to have vested in the renouncing or disclaiming heir or devisee, and the renunciation or disclaimer shall not be considered to be a transfer or gift of the renounced or disclaimed interest.

''(B) ELIGIBLE RECIPIENTS OF RENOUNCED OR DISCLAIMED INTERESTS; NOTICE TO RECIPIENTS.—

''(i) INTERESTS IN LAND.—A trust or restricted interest in land may be renounced or disclaimed only in favor of—

''(I) an eligible heir;

''(II) any person who would have been eligible to be a devisee of the interest in question pursuant to subsection (b)(1)(A) (but only in cases where the renouncing person is a devisee of the interest under a valid will); or

''(III) the Indian tribe with jurisdiction over the interest in question;

and the interest so renounced shall pass to its recipient in trust or restricted status.

''(ii) TRUST PERSONALTY.—An interest in trust personalty may be renounced or disclaimed in favor of any person who would be eligible to be a devisee of such an interest under subsection (b)(3) and shall pass to the recipient in accordance with the provisions of that subsection.

''(iii) UNAUTHORIZED RENUNCIATIONS AND DISCLAIMERS.—Unless renounced or disclaimed in favor of a person or Indian tribe eligible to receive the interest in accordance with the provisions of this subparagraph, a renounced or disclaimed interest shall pass as if the renunciation or disclaimer had not been made.

''(C) ACCEPTANCE OF INTEREST.—A renunciation or disclaimer of an interest filed in accordance with this paragraph shall be considered accepted when implemented in a final order by a decisionmaker, and shall thereafter be irrevocable. No renunciation or disclaimer of an interest shall be included in such order unless the recipient of the interest has been given notice of the renunciation or disclaimer and has not refused to accept the interest. All disclaimers and renunciations filed and implemented in probate orders made effective prior to the date of enactment of the American Indian Probate Reform Act of 2004 are hereby ratified.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to allow the renunciation of an interest that is subject to the provisions of section 207(a)(2)(D) (25 U.S.C. 2206(a)(2)(D)) in favor of more than 1 person.

''(9) CONSOLIDATION AGREEMENTS.—

''(A) IN GENERAL.—During the pendency of probate, the decisionmaker is authorized to approve written consolidation agreements effecting exchanges or gifts voluntarily entered into between the decedent's eligible heirs or devisees, to consolidate interests in any tract of land included in the decedent's trust inventory. Such agreements may provide for the conveyance of interests already owned by such heirs or devisees in such tracts, without having to comply with the Secretary's rules and requirements otherwise applicable to conveyances by deed of trust or restricted interests in land.

''(B) EFFECTIVE.—An agreement approved under subparagraph (A) shall be considered final when implemented in an order by a decisionmaker. The final probate order shall direct any changes necessary to the Secretary's land records, to reflect and implement the terms of the approved agreement.

''(C) EFFECT ON PURCHASE OPTION AT PROBATE.—Any interest in trust or restricted land that is subject to a consolidation agreement under this paragraph or section 207(e) (25 U.S.C. 2206(e)) shall not be available for purchase under section 207(p) (25 U.S.C. 2206(p)) unless the decisionmaker determines that the agreement should not be approved.''.

SEC. 4. PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) (as amended by section 6(a)(2)) is amended by adding at the end the following:

''(d) PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.—

''(1) APPLICABILITY.—This subsection shall be applicable only to parcels of land (including surface and subsurface interests, except with respect to a subsurface interest that has been severed from the surface interest, in which case this subsection shall apply only to the surface interest) which the Secretary has determined, pursuant to paragraph (2)(B), to be parcels of highly fractionated Indian land.

''(2) REQUIREMENTS.—Each partition action under this subsection shall be conducted by the Secretary in accordance with the following requirements:

''(A) APPLICATION.—Upon receipt of any payment or bond required under subparagraph (B), the Secretary shall commence a process for partitioning a parcel of land by sale in accordance with the provisions of this subsection upon receipt of an application by—

''(i) the Indian tribe with jurisdiction over the subject land that owns an undivided interest in the parcel of land; or

''(ii) any person owning an undivided interest in the parcel of land who is eligible to bid at the sale of the parcel pursuant to subclause (II), (III), or (IV) of subparagraph (I)(i);

provided that no such application shall be valid or considered if it is received by the Secretary prior to the date that is 1 year after the date on which notice is published pursuant to section 8(a)(4) of the American Indian Probate Reform Act of 2004.

''(B) COSTS OF SERVING NOTICE AND PUBLICATION.—The costs of serving and publishing notice under subparagraph (F) shall be borne by the applicant. Upon receiving written notice from the Secretary, the applicant must pay to the Secretary an amount determined by the Secretary to be the estimated costs of such service of notice and publication, or furnish a sufficient bond for such estimated costs within the time stated in the notice, failing which, unless an extension is granted by the Secretary, the Secretary shall not be required to commence the partition process under subparagraph (A) and may deny the application. The Secretary shall have the discretion and authority in any case to waive either the payment or the bond (or any portion of such payment or bond) otherwise required by this subparagraph, upon making a determination that such waiver will further the policies of this Act.

''(C) DETERMINATION.—Upon receipt of an application pursuant to subparagraph (A), the Secretary shall determine whether the subject parcel meets the requirements set forth in section 202(6) (25 U.S.C. 2201(6)) to be classified as a parcel of highly fractionated Indian land.

''(D) CONSENT REQUIREMENTS.—

''(i) IN GENERAL.—A parcel of land may be partitioned under this subsection only if the applicant obtains the written consent of—

''(I) the Indian tribe with jurisdiction over the subject land if such Indian tribe owns an undivided interest in the parcel;

''(II) any owner who, for the 3-year period immediately preceding the date on which the Secretary receives the application, has

''(aa) continuously maintained a bona fide residence on the parcel; or

''(bb) operated a bona fide farm, ranch, or other business on the parcel; and

''(III) the owners (including parents of minor owners and legal guardians of incompetent owners) of at least 50 percent of the undivided interests in the parcel, but only in cases where the Secretary determines that, based on the final appraisal prepared pursuant to subparagraph (F), any 1 owner's total undivided interest in the parcel (not including the interest of an Indian tribe or that of the owner requesting the partition) has a value in excess of $1,500.

Any consent required by this clause must be in writing and acknowledged before a notary public (or other official authorized to make acknowledgments), and shall be approved by Secretary unless the Secretary has reason to believe that the consent was obtained as a result of fraud or undue influence.

''(ii) CONSENT BY THE SECRETARY ON BEHALF OF CERTAIN INDIVIDUALS.—For the purposes of clause (i)(III), the Secretary may consent on behalf of—

''(I) undetermined heirs of trust or restricted interests and owners of such interests who are minors and legal incompetents having no parents or legal guardian; and

''(II) missing owners or owners of trust or restricted interests whose whereabouts are unknown, but only after a search for such owners has been completed in accordance with the provisions of this subsection.

''(E) APPRAISAL.—After the Secretary has determined that the subject parcel is a parcel of highly fractionated Indian land pursuant to subparagraph (C), the Secretary shall cause to be made, in accordance with the provisions of this Act for establishing fair market value, an appraisal of the fair market value of the subject parcel.

''(F) NOTICE TO OWNERS ON COMPLETION OF APPRAISAL.—Upon completion of the appraisal, the Secretary shall give notice of the requested partition and appraisal to all owners of undivided interests in the parcel, in accordance with principles of due process. Such notice shall include the following requirements:

''(i) WRITTEN NOTICE.—The Secretary shall attempt to give each owner written notice of the partition action stating the following:

''(I) That a proceeding to partition the parcel of land by sale has been commenced.

''(II) The legal description of the subject parcel.

''(III) The owner's ownership interest in the subject parcel as evidenced by the Secretary's records as of the date that owners are determined in accordance with clause (ii).

''(IV) The results of the appraisal.

''(V) The owner's right to receive a copy of the appraisal upon written request.

''(VI) The owner's right to comment on or object to the proposed partition and the appraisal.

''(VII) That the owner must timely comment on or object in writing to the proposed partition or the appraisal, in order to receive notice of approval of the appraisal and right to appeal.

''(VIII) The date by which the owner's written comments or objections must be received, which shall not be less than 90 days after the date that the notice is mailed under this clause or last published under clause (ii)(II).

''(IX) The address for requesting copies of the appraisal and for submitting written comments or objections.

''(X) The name and telephone number of the official to be contacted for purposes of obtaining information regarding the proceeding, including the time and date of the auction of the land or the date for submitting sealed bids.

''(XI) Any other information the Secretary deems to be appropriate.

''(ii) MANNER OF SERVICE.—

''(I) SERVICE BY CERTIFIED MAIL.—The Secretary shall use due diligence to provide all owners of interests in the subject parcel, as evidenced by the Secretary's records at the time of the determination under subparagraph (C), with actual notice of the partition proceedings by mailing a copy of the written notice described in clause (i) by certified mail, restricted delivery, to each such owner at the owner's last known address. For purposes of this subsection, owners shall be determined from the Secretary's land title records as of the date of the determination under subparagraph (C) or a date that is not more than 90 days prior to the date of mailing under this clause, whichever is later. In the event the written notice to an owner is returned undelivered, the Secretary shall attempt to obtain a current address for such owner by conducting a reasonable search (including a reasonable search of records maintained by local, state, Federal and tribal governments and agencies) and by inquiring with the Indian tribe with jurisdiction over the subject parcel, and, if different from that tribe, the Indian tribe of which the owner is a member, and, if successful in locating any such owner, send written notice by certified mail in accordance with this subclause.

''(II) NOTICE BY PUBLICATION.—The Secretary shall give notice by publication of the partition proceedings to all owners that the Secretary was unable to serve pursuant to subclause (I), and to unknown heirs and assigns by—

''(aa) publishing the notice described in clause (i) at least 2 times in a newspaper of general circulation in the county or counties where the subject parcel of land is located or, if there is an Indian tribe with jurisdiction over the parcel of land and that tribe publishes a tribal newspaper or newsletter at least once every month, 1 time in such newspaper of general circulation and 1 time in such tribal newspaper or newsletter;

''(bb) posting such notice in a conspicuous place in the tribal headquarters or administration building (or such other tribal building determined by the Secretary to be most appropriate for giving public notice) of the Indian tribe with jurisdiction over the parcel of land, if any; and

''(cc) in addition to the foregoing, in the Secretary's discretion, publishing notice in any other place or means that the Secretary determines to be appropriate.

''(G) REVIEW OF COMMENTS ON APPRAISAL.—

''(i) IN GENERAL.—After reviewing and considering comments or information timely submitted by any owner of an interest in the parcel in response to the notice required under subparagraph (F), the Secretary may, consistent with the provisions of this Act for establishing fair market value—

''(I) order a new appraisal; or

''(II) approve the appraisal;

provided that if the Secretary orders a new appraisal under subclause (I), notice of the new appraisal shall be given as specified in clause (ii).

''(ii) NOTICE.—Notice shall be given—

''(I) in accordance with subparagraph (H), where the new appraisal results in a higher valuation of the land; or

''(II) in accordance with subparagraph (F)(ii), where the new appraisal results in a lower valuation of the land.

''(H) NOTICE TO OWNERS OF APPROVAL OF APPRAISAL AND RIGHT TO APPEAL.—Upon making the determination under subparagraph (G), the Secretary shall provide to the Indian tribe with jurisdiction over the subject land and to all persons who submitted written comments on or objections to the proposed partition or appraisal, a written notice to be served on such tribe and persons by certified mail. Such notice shall state—

''(i) the results of the appraisal;

''(ii) that the owner has the right to review a copy of the appraisal upon request;

''(iii) that the land will be sold for not less than the appraised value, subject to the consent requirements under paragraph (2)(D);

''(iv) the time of the sale or for submitting bids under subparagraph (I);

''(v) that the owner has the right, under the Secretary's regulations governing administrative appeals, to pursue an administrative appeal from—

''(I) the determination that the land may be partitioned by sale under the provisions of this section; and

''(II) the Secretary's order approving the appraisal;

''(vi) the date by which an administrative appeal must be taken, a citation to the provisions

of the Secretary's regulations that will govern the owner's appeal, and any other information required by such regulations to be given to parties affected by adverse decisions of the Secretary;

''(vii) in cases where the Secretary determines that any person's undivided trust or restricted interest in the parcel exceeds $1,500 pursuant to paragraph (2)(D)(iii), that the Secretary has authority to consent to the partition on behalf of undetermined heirs of trust or restricted interests in the parcel and owners of such interests whose whereabouts are unknown; and

''(viii) any other information the Secretary deems to be appropriate.

''(I) SALE TO ELIGIBLE PURCHASER.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii) and the consent requirements of paragraph (2)(D), the Secretary shall, after providing notice to owners under subparagraph (H), including the time and place of sale or for receiving sealed bids, at public auction or by sealed bid (whichever of such methods of sale the Secretary determines to be more appropriate under the circumstances) sell the parcel of land by competitive bid for not less than the final appraised fair market value to the highest bidder from among the following eligible bidders:

''(I) The Indian tribe, if any, with jurisdiction over the trust or restricted interests in the parcel being sold.

''(II) Any person who is a member, or is eligible to be a member, of the Indian tribe described in subclause (I).

''(III) Any person who is a member, or is eligible to be a member, of an Indian tribe but not of the tribe described in subclause (I), but only if such person already owns an undivided interest in the parcel at the time of sale.

''(IV) Any lineal descendent of the original allottee of the parcel who is a member or is eligible to be a member of an Indian tribe or, with respect to a parcel located in the State of California that is not within an Indian tribe's reservation or not otherwise subject to the jurisdiction of an Indian tribe, who is a member, or eligible to be a member, of an Indian tribe or owns a trust or restricted interest in the parcel.

''(ii) RIGHT TO MATCH HIGHEST BID.—If the highest bidder is a person who is only eligible to bid under clause (i)(III), the Indian tribe that has jurisdiction over the parcel, if any, shall have the right to match the highest bid and acquire the parcel, but only if—

''(I) prior to the date of the sale, the governing body of such tribe has adopted a tribal law or resolution reserving its right to match the bids of such nonmember bidders in partition sales under this subsection and delivered a copy of such law or resolution to the Secretary; and

''(II) the parcel is not acquired under clause (iii).

''(iii) RIGHT TO PURCHASE.—Any person who is a member, or eligible to be a member, of the Indian tribe with jurisdiction over the trust or restricted interests in the parcel being sold and is, as of the time of sale under this subparagraph, the owner of the largest undivided interest in the parcel shall have a right to purchase the parcel by tendering to the Secretary an amount equal to the highest sufficient bid submitted at the sale, less that amount of the bid attributable to such owner's share, but only if—

''(I) the owner submitted a sufficient bid at the sale;

''(II) the owner's total undivided interest in the parcel immediately prior to the sale was—

''(aa) greater than the undivided interest held by any other co-owners, except where there are 2 or more co-owners whose interests are of equal size but larger than the interests of all other co-owners and such owners of the largest interests have agreed in writing that 1 of them may exercise the right of purchase under this clause; and

''(bb) equal to or greater than 20 percent of the entire undivided ownership of the parcel;

''(III) within 3 days following the date of the auction or for receiving sealed bids, and in accordance with the regulations adopted to implement this section, the owner delivers to the Secretary a written notice of intent to exercise the owner's rights under this clause; and

''(IV) such owner tenders the amount of the purchase price required under this clause—

''(aa) not less than 30 days after the date of the auction or time for receiving sealed bids; and

''(bb) in accordance with any requirements of the regulations promulgated to implement this section.

''(iv) INTEREST ACQUIRED.—A purchaser of a parcel of land under this subparagraph shall acquire title to the parcel in trust or restricted status, free and clear of any and all claims of title or ownership of all persons or entities (not including the United States) owning or claiming to own an interest in such parcel prior to the time of sale.

''(J) PROCEEDS OF SALE.—

''(i) Subject to clauses (ii) and (iii), the Secretary shall distribute the proceeds of sale of a parcel of land under the provisions of this section to the owners of interests in such parcel in proportion to their respective ownership interests.

''(ii) Proceeds attributable to the sale of trust or restricted interests shall be maintained in accounts as trust personalty.

''(iii) Proceeds attributable to the sale of interests of owners whose whereabouts are unknown, of undetermined heirs, and of other persons whose ownership interests have not been recorded shall be held by the Secretary until such owners, heirs, or other persons have been determined, at which time such proceeds shall be distributed in accordance with clauses (i) and (ii).

''(K) LACK OF BIDS OR CONSENT.—

''(i) LACK OF BIDS.—If no bidder described in subparagraph (I) presents a bid that equals or exceeds the final appraised value, the Secretary may either—

''(I) purchase the parcel of land for its appraised fair market value on behalf of the Indian tribe with jurisdiction over the land, subject to the lien and procedures provided under section 214(b) (25 U.S.C. 2213(b)); or

''(II) terminate the partition process.

''(ii) LACK OF CONSENT.—If an applicant fails to obtain any applicable consent required under the provisions of subparagraph (D) by the date established by the Secretary prior to the proposed sale, the Secretary may either extend the time for obtaining any such consent or deny the request for partition.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If a partition is approved under this subsection and an owner of an interest in the parcel of land refuses to surrender possession in accordance with the partition decision, or refuses to execute any conveyance necessary to implement the partition, then any affected owner or the United States may—

''(i) commence a civil action in the United States district court for the district in which the parcel of land is located; and

''(ii) request that the court issue an order for ejectment or any other appropriate remedy necessary for the partition of the land by sale.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is a necessary and indispensable party.

''(4) GRANTS AND LOANS.—The Secretary may provide grants and low interest loans to successful bidders at sales authorized by this subsection, provided that—

''(A) the total amount of such assistance in any such sale shall not exceed 20 percent of the appraised value of the parcel of land sold; and

''(B) the grant or loan funds provided shall only be applied toward the purchase price of the parcel of land sold.

''(5) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this subsection. Such regulations shall include provisions for giving notice of sales to prospective purchasers eligible to submit bids at sales conducted under paragraph (2)(I).''.

SEC. 5. OWNER-MANAGED INTERESTS.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''SEC. 221. OWNER-MANAGED INTERESTS.

''(a) PURPOSE.—The purpose of this section is to provide a means for the co-owners of trust or restricted interests in a parcel of land to enter into surface leases of such parcel for certain purposes without approval of the Secretary.

''(b) MINERAL INTERESTS.—Nothing in this section shall be construed to limit or otherwise affect the application of any Federal law requiring the Secretary to approve mineral leases or other agreements for the development of the mineral interest in trust or restricted land.

''(c) OWNER MANAGEMENT.—

''(1) IN GENERAL.—Notwithstanding any provision of Federal law requiring the Secretary to approve individual Indian leases of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary pursuant to subsection (a), and the Secretary has approved such applications under subsection (d), such owners may, without further approval by the Secretary, enter into a lease of the parcel for agricultural purposes for a term not to exceed 10 years.

''(2) RULE OF CONSTRUCTION.—No such lease shall be effective until it has been executed by the owners of all undivided trust or restricted interests in the parcel.

''(d) APPROVAL OF APPLICATIONS FOR OWNER MANAGEMENT.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), the Secretary shall approve an application for owner management submitted by a qualified applicant pursuant to this section unless the Secretary has reason to believe that the applicant is submitting the application as the result of fraud or undue influence. No such application shall be valid or considered if it is received by the Secretary prior to the date that is 1 year after the date on which notice is published pursuant to section 8(a)(4) of the American Indian Probate Reform Act of 2004.

''(2) COMMENCEMENT OF OWNER-MANAGED STATUS.—Notwithstanding the approval of 1 or more applications pursuant to paragraph (1), no trust or restricted interest in a parcel of land shall acquire owner-managed status until applications for all of the trust or restricted interests in such parcel of land have been submitted to and approved by the Secretary pursuant to this section.

''(e) VALIDITY OF LEASES.—No lease of trust or restricted interests in a parcel of land that is owner-managed under this section shall be valid or enforceable against the owners of such interests, or against the land, the interest or the United States, unless such lease—

''(1) is consistent with, and entered into in accordance with, the requirements of this section; or

''(2) has been approved by the Secretary in accordance with other Federal laws applicable to the leasing of trust or restricted land.

''(f) LEASE REVENUES.—The Secretary shall not be responsible for the collection of, or accounting for, any lease revenues accruing to any interests under a lease authorized by subsection (e), so long as such interest is in owner-managed status under the provisions of this section.

''(g) JURISDICTION.—

''(1) JURISDICTION UNAFFECTED BY STATUS.—The Indian tribe with jurisdiction over an interest in trust or restricted land that becomes

owner-managed pursuant to this section shall continue to have jurisdiction over the interest to the same extent and in all respects that such tribe had prior to the interest acquiring owner-managed status.

''(2) PERSONS USING LAND.—Any person holding, leasing, or otherwise using such interest in land shall be considered to consent to the jurisdiction of the Indian tribe referred to in paragraph (1), including such tribe's laws and regulations, if any, relating to the use, and any effects associated with the use, of the interest.

''(h) CONTINUATION OF OWNER-MANAGED STATUS; REVOCATION.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), after the applications of the owners of all of the trust or restricted interests in a parcel of land have been approved by the Secretary pursuant to subsection (d), each such interest shall continue in owner-managed status under this section notwithstanding any subsequent conveyance of the interest in trust or restricted status to another person or the subsequent descent of the interest in trust or restricted status by testate or intestate succession to 1 or more heirs.

''(2) REVOCATION.—Owner-managed status of an interest may be revoked upon written request of the owners (including the parents or legal guardians of minors or incompetent owners) of all trust or restricted interests in the parcel, submitted to the Secretary in accordance with regulations adopted under subsection (l). The revocation shall become effective as of the date on which the last of all such requests has been delivered to the Secretary.

''(3) EFFECT OF REVOCATION.—Revocation of owner-managed status under paragraph (2) shall not affect the validity of any lease made in accordance with the provisions of this section prior to the effective date of the revocation, provided that, after such revocation becomes effective, the Secretary shall be responsible for the collection of, and accounting for, all future lease revenues accruing to the trust or restricted interests in the parcel from and after such effective date.

''(i) DEFINED TERMS.—

''(1) For purposes of subsection (d)(1), the term 'qualified applicant' means—

''(A) a person over the age of 18 who owns a trust or restricted interest in a parcel of land; and

''(B) the parent or legal guardian of a minor or incompetent person who owns a trust or restricted interest in a parcel of land.

''(2) For purposes of this section, the term 'owner-managed status' means, with respect to a trust or restricted interest, that—

''(A) the interest is a trust or restricted interest in a parcel of land for which applications covering all trust or restricted interests in such parcel have been submitted to and approved by the Secretary pursuant to subsection (d);

''(B) the interest may be leased without approval of the Secretary pursuant to, and in a manner that is consistent with, the requirements of this section; and

''(C) no revocation has occurred under subsection (h)(2).

''(j) SECRETARIAL APPROVAL OF OTHER TRANSACTIONS.—Except with respect to the specific lease transaction described in paragraph (1) of subsection (c), interests that acquire owner-managed status under the provisions of this section shall continue to be subject to all Federal laws requiring the Secretary to approve transactions involving trust or restricted land (including leases with terms of a duration in excess of 10 years) that would otherwise apply to such interests if the interests had not acquired owner-managed status under this section.

''(k) EFFECT OF SECTION.—Subject to subsections (c), (f), and (h), nothing in this section diminishes or otherwise affects any authority or responsibility of the Secretary with respect to an interest in trust or restricted land.''.

SEC. 6. ADDITIONAL AMENDMENTS.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

(2) in section 207 (25 U.S.C. 2206), by adding a subsection at the end as follows:

''(p) PURCHASE OPTION AT PROBATE.—

''(1) IN GENERAL.—The trust or restricted interests in a parcel of land in the decedent's estate may be purchased at probate in accordance with the provisions of this subsection.

''(2) SALE OF INTEREST AT FAIR MARKET VALUE.—Subject to paragraph (3), the Secretary is authorized to sell trust or restricted interests in land subject to this subsection, including the interest that a surviving spouse would otherwise receive under section 207(a)(2) (A) or (D), at no less than fair market value, as determined in accordance with the provisions of this Act, to any of the following eligible purchasers:

''(A) Any other eligible heir taking an interest in the same parcel of land by intestate succession or the decedent's other devisees of interests in the same parcel who are eligible to receive a devise under section 207(b)(1)(A).

''(B) All persons who own undivided trust or restricted interests in the same parcel of land involved in the probate proceeding.

''(C) The Indian tribe with jurisdiction over the interest, or the Secretary on behalf of such Indian tribe.

''(3) REQUEST TO PURCHASE; AUCTION; CONSENT REQUIREMENTS.—No sale of an interest in probate shall occur under this subsection unless—

''(A) an eligible purchaser described in paragraph (2) submits a written request to purchase prior to the distribution of the interest to heirs or devisees of the decedent and in accordance with any regulations of the Secretary; and

''(B) except as provided in paragraph (5), the heirs or devisees of such interest, and the decedent's surviving spouse, if any, receiving a life estate under section 207(a)(2) (A) or (D) consent to the sale.

If the Secretary receives more than 1 request to purchase the same interest, the Secretary shall sell the interest by public auction or sealed bid (as determined by the Secretary) at not less than the appraised fair market value to the eligible purchaser submitting the highest bid.

''(4) APPRAISAL AND NOTICE.—Prior to the sale of an interest pursuant to this subsection, the Secretary shall—

''(A) appraise the interest at its fair market value in accordance with this Act;

''(B) provide eligible heirs, other devisees, and the Indian tribe with jurisdiction over the interest with written notice, sent by first class mail, that the interest is available for purchase in accordance with this subsection; and

''(C) if the Secretary receives more than 1 request to purchase the interest by a person described in subparagraph (B), provide notice of the manner (auction or sealed bid), time and place of the sale, a description, and the appraised fair market value, of the interest to be sold—

''(i) to the heirs or other devisees and the Indian tribe with jurisdiction over the interest, by first class mail; and

''(ii) to all other eligible purchasers, by posting written notice in at least 5 conspicuous places in the vicinity of the place of hearing.

''(5) SMALL UNDIVIDED INTERESTS IN INDIAN LANDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the consent of a person who is an heir otherwise required under paragraph (3)(B) shall not be required for the auction and sale of an interest at probate under this subsection if—

''(i) the interest is passing by intestate succession; and

''(ii) prior to the auction the Secretary determines in the probate proceeding that the interest passing to such heir represents less than 5 percent of the entire undivided ownership of the parcel of land as evidenced by the Secretary's records as of the time the determination is made.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the consent of such heir shall be required for the sale at probate of the heir's interest if, at the time of the decedent's death, the heir was residing on the parcel of land of which the interest to be sold was a part.

''(6) DISTRIBUTION OF PROCEEDS.—Proceeds from the sale of interests under this subsection shall be distributed to the heirs, devisees, or spouse whose interest was sold in accordance with the values of their respective interests. The proceeds attributable to an heir or devisee shall be held in an account as trust personalty if the interest sold would have otherwise passed to the heir or devisee in trust or restricted status.'';

(3) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prohibits the devise of an interest in trust or restricted land to—

''(A) an Indian lineal descendant of the original allottee; or

''(B) an Indian who is not a member of the Indian tribe with jurisdiction over such an interest;

unless the code provides for—

''(i) the renouncing of interests to eligible devisees in accordance with the code;

''(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate without regard to waste; and

''(iii) payment of fair market value in the manner prescribed under subsection (c)(2).''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

''(1) AUTHORITY.—

''(A) IN GENERAL.—'';

(II) in the first sentence of subparagraph (A) (as redesignated by clause (i)), by striking ''section 207(a)(6)(A) of this title'' and inserting ''section 207(b)(2)(A)(ii) of this title''; and

(III) by striking the last sentence and inserting the following:

''(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.''; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through ''Paragraph (1) shall not apply'' and inserting the following:

''(A) INAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph (1) shall not apply'';

(bb) in clause (i) (as redesignated by item (aa)), by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(cc) by striking the period at the end and inserting ''; or''; and

(dd) by adding at the end the following:

''(II)(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

''(bb) the devisee agrees that the Indian tribe with jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to a person or entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—On request by the Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) limits—

''(I) the ability of an owner of land to which that clause applies to mortgage the land; or

''(II) the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

''(iv) DEFINITION OF 'MEMBER OF THE FAMILY'.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

''(I) a lineal descendant of a decedent or landowner;

''(II) a lineal descendant of the grandparent of a decedent or landowner;

''(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

''(IV) the spouse of a decedent or landowner.''; and

(II) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B) of this title'' and inserting ''paragraph (1)'';

(4) in section 207 (25 U.S.C. 2206), by striking subsection (g);

(5) in section 213 (25 U.S.C. 2212)—

(A) by striking the section heading and inserting the following:

''SEC. 2212. FRACTIONAL INTEREST ACQUISITION PROGRAM.'';

(B) in subsection (a), by—

(i) adding in paragraph (1) ''or from an heir during probate in accordance with section 207(p) (25 U.S.C. 2206(p))'' after ''owner,''; and

(ii) striking ''(2) AUTHORITY OF SECRETARY.—'' and all that follows through ''the Secretary shall submit'' and inserting the following:

''(2) AUTHORITY OF SECRETARY.—The Secretary shall submit''; and

(iii) by striking ''whether the program to acquire fractional interests should be extended or altered to make resources'' and inserting ''how the fractional interest acquisition program should be enhanced to increase the resources made'';

(C) in subsection (b), by striking paragraph (4) and inserting the following:

''(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

''(A) conveyance documents;

''(B) administrative proceedings; and

''(C) transactions.'';

(D) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking ''at least 5 percent of the'' and inserting in its place ''an'';

(II) in subparagraph (A), by inserting ''in such parcel'' following ''the Secretary shall convey an interest'';

(III) in subparagraph (A), by striking ''landowner upon payment'' and all that follows and inserting the following: ''landowner—

''(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if—

''(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

''(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.''; and

(IV) in subparagraph (B), by inserting before the period at the end the following: ''unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)''; and

(ii) in paragraph (3), by striking ''10 percent or more of the undivided interests'' and inserting ''an undivided interest''; and

(E) by adding at the end of the section:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for fiscal year 2005, $95,000,000 for fiscal year 2006, and $145,000,000 for each of fiscal years 2007 through 2010.'';

(6) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

''(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

''(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

''(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

''(3) REMOVAL OF LIENS AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) REMOVAL OF LIENS UPON PAYMENT INTO THE ACQUISITION FUND.—The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215 of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

''(5) OTHER REMOVAL OF LIENS.—The Secretary may, in consultation with tribal governments and other entities described in section 213(b)(3), periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(7) in section 215 (25 U.S.C. 2214), in the last sentence, by striking ''section 2212 of this title'' and inserting ''this Act'';

(8) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation from which the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.'';

(9) in section 217 (25 U.S.C. 2216)—

(A) in subsection (b)(1), by striking subparagraph (B) and inserting a new subparagraph (B) as follows:

''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of a trust or restricted interest in land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

''(i) to an Indian person who is the owner's spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or

''(ii) to an Indian co-owner or to the tribe with jurisdiction over the subject parcel of land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.'';

(B) in subsection (e), by striking the matter preceding paragraph (1), and inserting ''Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to'';

(C) in subsection (e)(1), by striking ''Indian'';

(D) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and inserting ''any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,''; and

(E) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY INDIAN TRIBE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of, or interest in, trust or restricted land, the Indian tribe with jurisdiction over the parcel shall have the opportunity—

''(A) to match any offer contained in the application; or

''(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

''(2) EXCEPTION FOR FAMILY FARMS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of, or interest in, trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if the conveyance requires that in the event that the parcel or interest is offered for sale to an entity or person that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).

''(B) APPLICABILITY OF OTHER PROVISION.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).'';

(10) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking ''100'' and inserting ''90''; and

(11) in section 219, by adding at the end of the section:

''(g) OTHER LAWS.—Nothing in this Act shall be construed to supersede, repeal, or modify any general or specific statute authorizing the grant or approval of any type of land use transaction

involving fractional interests in trust or restricted land.''.

(b) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) 'Indian' means—

''(A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of the date of enactment of the American Indian Probate Reform Act of 2004) of a trust or restricted interest in land;

''(B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; and

''(C) with respect to the inheritance and ownership of trust or restricted land in the State of California pursuant to section 207, any person described in subparagraph (A) or (B) or any person who owns a trust or restricted interest in a parcel of such land in that State.'';

(2) by striking paragraph (4) and inserting the following:

''(4) 'trust or restricted lands' means lands, title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation; and 'trust or restricted interest in land' or 'trust or restricted interest in a parcel of land' means an interest in land, title to which is held in trust by the United States for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.''; and

(3) by adding at the end the following:

''(6) 'parcel of highly fractionated Indian land' means a parcel of land that the Secretary, pursuant to authority under a provision of this Act, determines to have, as evidenced by the Secretary's records at the time of the determination—

''(A) 50 or more but less than 100 co-owners of undivided trust or restricted interests, and no 1 of such co-owners holds a total undivided trust or restricted interest in the parcel that is greater than 10 percent of the entire undivided ownership of the parcel; or

''(B) 100 or more co-owners of undivided trust or restricted interests;

''(7) 'land' means any real property, and includes within its meaning for purposes of this Act improvements permanently affixed to real property;

''(8) 'person' or 'individual' means a natural person;

''(9) 'eligible heirs' means, for purposes of section 207 (25 U.S.C. 2206), any of a decedent's children, grandchildren, great grandchildren, full siblings, half siblings by blood, and parents who are—

''(A) Indian; or

''(B) lineal descendents within 2 degrees of consanguinity of an Indian; or

''(C) owners of a trust or restricted interest in a parcel of land for purposes of inheriting by descent, renunciation, or consolidation agreement under section 207 (25 U.S.C. 2206), another trust or restricted interest in such parcel from the decedent; and

''(10) 'without regard to waste' means, with respect to a life estate interest in land, that the holder of such estate is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remaindermen.''.

(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: ''Provided, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:''.

(d) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by—

(1) striking '', in accordance with'' and all that follows through ''or in which the subject matter of the corporation is located,'';

(2) striking '', except as provided by the Indian Land Consolidation Act'' and all that follows through the colon; and

(3) inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

(e) ESTATE PLANNING.—

(1) CONDUCT OF ACTIVITIES.—Section 207(f)(1) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—

''(A) The activities conducted under this subsection shall be conducted in accordance with any applicable—

''(i) tribal probate code; or

''(ii) tribal land consolidation plan.

''(B) The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.''.

(2) REQUIREMENTS.—Section 207(f)(2) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(2)) is amended by striking ''and'' at the end of subparagraph (A), redesignating subparagraph (B) as subparagraph (D), and adding the following:

''(B) dramatically increase the use of wills and other methods of devise among Indian landowners;

''(C) substantially reduce the quantity and complexity of Indian estates that pass intestate through the probate process, while protecting the rights and interests of Indian landowners; and''.

(3) PROBATE CODE DEVELOPMENT AND LEGAL ASSISTANCE GRANTS.—Section 207(f)(3) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(3)) is amended by striking paragraph (3) and inserting the following:

''(3) PROBATE CODE DEVELOPMENT AND LEGAL ASSISTANCE GRANTS.—In carrying out this section, the Secretary may award grants to—

''(A) Indian tribes, for purposes of tribal probate code development and estate planning services to tribal members;

''(B) organizations that provide legal assistance services for Indian tribes, Indian organizations, and individual owners of interests in trust or restricted lands that are qualified as nonprofit organizations under section 501(c)(3) of the Internal Revenue Code of 1986 and provide such services pursuant to Federal poverty guidelines, for purposes of providing civil legal assistance to such Indian tribes, individual owners, and Indian organizations for the development of tribal probate codes, for estate planning services or for other purposes consistent with the services they provide to Indians and Indian tribes; and

''(C) in specific areas and reservations where qualified nonprofit organizations referred to in subparagraph (B) do not provide such legal assistance to Indian tribes, Indian organizations, or individual owners of trust or restricted land, to other providers of such legal assistance;

that submit an application to the Secretary, in such form and manner as the Secretary may prescribe.

''(4) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of paragraph (3).''.

(4) NOTIFICATION TO LANDOWNERS.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(l) NOTIFICATION TO LANDOWNERS.—After receiving written request by any owner of a trust or restricted interest in land, the Secretary shall provide to such landowner the following information with respect to each tract of trust or restricted land in which the landowner has an interest:

''(1) The location of the tract of land involved.

''(2) The identity of each other co-owner of interests in the parcel of land.

''(3) The percentage of ownership of each owner of an interest in the tract.

''(m) PILOT PROJECT FOR THE MANAGEMENT OF TRUST ASSETS OF INDIAN FAMILIES AND RELATIVES.—

''(1) DEVELOPMENT PILOT PROJECT.—The Secretary shall consult with tribes, individual landowner organizations, Indian advocacy organizations, and other interested parties to—

''(A) develop a pilot project for the creation of legal entities such as private or family trusts, partnerships corporations, or other organizations to improve, facilitate, and assist in the efficient management of interests in trust or restricted lands or funds owned by Indian family members and relatives; and

''(B) develop proposed rules, regulations, and guidelines to implement the pilot project, including—

''(i) the criteria for establishing such legal entities;

''(ii) reporting and other requirements that the Secretary determines to be appropriate for administering such entities; and

''(iii) provisions for suspending or revoking the authority of an entity to engage in activities relating to the management of trust or restricted assets under the pilot project in order to protect the interests of the beneficial owners of such assets.

''(2) PRIMARY PURPOSES; LIMITATION; APPROVAL OF TRANSACTIONS; PAYMENTS BY SECRETARY.—

''(A) PURPOSES.—The primary purpose of any entity organized under the pilot project shall be to improve, facilitate, and assist in the management of interests in trust or restricted land, held by 1 or more persons, in furtherance of the purposes of this Act.

''(B) LIMITATION.—The organization or activities of any entity under the pilot project shall not be construed to impair, impede, replace, abrogate, or modify in any respect the trust duties or responsibilities of the Secretary, nor shall anything in this subsection or in any rules, regulations, or guidelines developed under this subsection enable any private or family trustee of trust or restricted interests in land to exercise any powers over such interests greater than that held by the Secretary with respect to such interests.

''(C) SECRETARIAL APPROVAL OF TRANSACTIONS.—Any transaction involving the lease, use, mortgage or other disposition of trust or restricted land or other trust assets administered by or through an entity under the pilot project shall be subject to approval by the Secretary in accordance with applicable Federal law.

''(D) PAYMENTS.—The Secretary shall have the authority to make payments of income and revenues derived from trust or restricted land or other trust assets administered by or through an entity participating in the pilot project directly to the entity, in accordance with requirements of the regulations adopted pursuant to this subsection.

''(3) LIMITATIONS ON PILOT PROJECT.—

''(A) NUMBER OF ORGANIZATIONS.—The number of entities established under the pilot project authorized by this subsection shall not exceed 30.

''(B) REGULATIONS REQUIRED.—No entity shall commence activities under the pilot project authorized by this subsection until the Secretary has adopted final rules and regulations under paragraph (1)(B).

''(4) REPORT TO CONGRESS.—Prior to the expiration of the pilot project provided for under this subsection, the Secretary shall submit a report to Congress stating—

''(A) a description of the Secretary's consultation with Indian tribes, individual landowner

associations, Indian advocacy organizations, and other parties consulted with regarding the development of rules and regulations for the creation and management of interests in trust and restricted lands under the pilot project;

''(B) the feasibility of accurately monitoring the performance of legal entities such as those involved in the pilot project, and the effectiveness of such entities as mechanisms to manage and protect trust assets;

''(C) the impact that the use of entities such as those in the pilot project may have with respect to the accomplishment of the goals of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

''(D) any recommendations that the Secretary may have regarding whether to adopt a permanent program as a management and consolidation measure for interests in trust or restricted lands.

''(n) NOTICE TO HEIRS.—Prior to holding a hearing to determine the heirs to trust or restricted property, or making a decision determining such heirs, the Secretary shall seek to provide actual written notice of the proceedings to all heirs. Such efforts shall include—

''(1) a search of publicly available records and Federal records, including telephone and address directories and including electronic search services or directories;

''(2) an inquiry with family members and coheirs of the property;

''(3) an inquiry with the tribal government of which the owner is a member, and the tribal government with jurisdiction over the property, if any; and

''(4) if the property is of a value greater than $2,000, engaging the services of an independent firm to conduct a missing persons search.

''(o) MISSING HEIRS.—

''(1) For purposes of this subsection and subsection (m), an heir may be presumed missing if—

''(A) such heir's whereabouts remain unknown 60 days after completion of notice efforts under subsection (m); and

''(B) in the proceeding to determine a decedent's heirs, the Secretary finds that the heir has had no contact with other heirs of the decedent, if any, or with the Department relating to trust or restricted land or other trust assets at any time during the 6-year period preceding the hearing to determine heirs.

''(2) Before the date for declaring an heir missing, any person may request an extension of time to locate such heir. The Secretary shall grant a reasonable extension of time for good cause.

''(3) An heir shall be declared missing only after a review of the efforts made in the heirship proceeding and a finding has been made that this subsection has been complied with.

''(4) An heir determined to be missing pursuant to this subsection shall be deemed to have predeceased the decedent for purposes of descent and devise of trust or restricted land and trust personalty within that decedent's estate.''.

SEC. 7. ANNUAL NOTICE AND FILING REQUIREMENT FOR OWNERS OF INTERESTS IN TRUST OR RESTRICTED LANDS.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''SEC. 222. ANNUAL NOTICE AND FILING; CURRENT WHEREABOUTS OF INTEREST OWNERS.

''On at least an annual basis, the Secretary shall include along with other regular reports to owners of trust or restricted interests in land and individual Indian money account owners a change of name and address form by means of which the owner may confirm or update the owner's name and address. The change of name and address form shall include a section in which the owner may confirm and update the owner's name and address.''.

SEC. 8. NOTICE; EFFECTIVE DATE.

(a) NOTICE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall notify Indian tribes and owners of trust or restricted lands of the amendments made by this Act.

(2) SPECIFICATIONS.—The notice required under paragraph (1) shall be designed to inform Indian owners of trust or restricted land of—

(A) the effect of this Act and the amendments made by this Act, with emphasis on the effect of the provisions of this Act and the amendments made by this Act, on the testate disposition and intestate descent of their interests in trust or restricted land;

(B) estate planning options available to the owners, including any opportunities for receiving estate planning assistance or advice;

(C) the use of negotiated sales, gift deeds, land exchanges, and other transactions for consolidating the ownership of land; and

(D) a toll-free telephone number to be used for obtaining information regarding the provisions of this Act and any trust assets of such owners.

(3) REQUIREMENTS.—The Secretary shall provide the notice required under paragraph (1)—

(A) by direct mail for those Indians with interests in trust and restricted lands for which the Secretary has an address for the interest holder;

(B) through the Federal Register;

(C) through local newspapers in areas with significant Indian populations, reservation newspapers, and newspapers that are directed at an Indian audience; and

(D) through any other means determined appropriate by the Secretary.

(4) CERTIFICATION.—After providing notice under this subsection, the Secretary shall—

(A) certify that the requirements of this subsection have been met; and

(B) publish notice of that certification in the Federal Register.

(b) EFFECTIVE DATE.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206), except subsections (e) and (f) of that section, shall not apply to the estate of an individual who dies before the date that is 1 year after the date on which the Secretary makes the certification required under subsection (a)(4).

SEC. 9. SEVERABILITY.

If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this Act and of amendments made by this Act, and the application of the provisions and of the amendments made by this Act to any other person or circumstance shall not be affected by such holding, except that each of subclauses (II), (III), and (IV) of section 205(d)(2)(I)(i) is deemed to be inseverable from the other 2, such that if any 1 of those 3 subclauses is held to be invalid for any reason, neither of the other 2 of such subclauses shall be given effect.

SEC. 10. REGULATIONS.

The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this Act.

Mr. TALENT. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1721), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. TALENT. Mr. President, as in executive session, I ask unanimous consent that immediately following the vote in relation to the Cantwell amendment, on Thursday, the Senate proceed to executive session and there be 10 minutes equally divided between the two leaders or their designees prior to three consecutive votes on the following nominations: Calendar No. 559, Sandra Townes, to be U.S. District Judge for the Eastern District of New York; Calendar No. 560, Kenneth Karas, to be U.S. District Judge for the Southern District of New York; Calendar No. 561, Judith Herrera, to be U.S. District Judge for the District of New Mexico. I further ask consent that following those votes, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDERS FOR THURSDAY, JUNE 3, 2004

Mr. TALENT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Thursday, June 3. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then begin a period of morning business for up to 60 minutes, with the majority leader or his designee in control of the first 30 minutes, and the Democratic leader or his designee in control of the final 30 minutes; provided that following morning business, the Senate resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill.

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

PROGRAM

Mr. TALENT. Tomorrow, following morning business, the Senate will resume consideration of the Department of Defense authorization bill. Under the previous order, when the Senate resumes consideration of the bill, the pending Crapo and Graham amendments will be adopted, and Senator CANTWELL will be recognized to offer an amendment. There will be up to 4 hours of debate on her amendment prior to a vote. It is anticipated that the vote in relation to the Cantwell amendment will occur at approximately 2:30 p.m. Immediately following the vote in relation to the Cantwell amendment, the Senate will vote on three judicial nominations. Therefore, for the information of Senators, there will be up to four stacked votes beginning in the early afternoon.

For the remainder of the day, the Senate will continue the amending process to the Department of Defense authorization bill.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. TALENT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:41 p.m., adjourned until Thursday, June 3, 2004, at 9:45 a.m.