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Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

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

Let us pray.

Lord of life, high above all, yet in all, the challenges of our world are great and our hands are small. The mystery of life is deep, and our faith falters. The temptations of life are intense, and our wills are feeble.

Lord, guide our steps. Shower Your Senators with enduring blessings. As they deal with the swirling winds of change, be their ever present help. Give them patience to trust the unfolding of Your loving providence. Give each of us the wisdom to refuse to deviate from the path of integrity.

Lord, today we ask for You to comfort the grieving families of the Alaskan Boy Scouts.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

Pending:

Frist modified amendment No. 1342, to support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America.

Inhofe amendment No. 1311, to protect the economic and energy security of the United States.

Inhofe/Kyl amendment No. 1313, to require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross.

Lautenberg amendment No. 1351, to stop corporations from financing terrorism.

Ensign amendment No. 1374, to require a report on the use of riot control agents.

Ensign amendment No. 1375, to require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council.

Collins amendment No. 1377 (to Amendment No. 1351), to ensure that certain persons do not evade or avoid the prohibition imposed under the International Emergency Economic Powers Act.

Durbin amendment No. 1379, to require certain dietary supplement manufacturers to report certain serious adverse events.

Hutchison/Nelson (FL) amendment No. 1357, to express the sense of the Senate with regard to manned space flight.

Thune amendment No. 1389, to postpone the 2005 round of defense base closure and realignment.

Kennedy amendment No. 1415, to transfer funds authorized to be appropriated to the Department of Energy for the National Nuclear Security Administration for weapons activities and available for the Robust Nuclear Earth Penetrator to the Army National Guard, Washington, District of Columbia chapter.

Allard/McConnell amendment No. 1418, to require life cycle cost estimates for the destruction of lethal chemical munitions under the Assembled Chemical Weapons Alternatives program.

Allard/Salazar amendment No. 1419, to authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado, who would otherwise fail to qualify for such benefits because of an early physical completion date.

Dorgan amendment No. 1426, to express the sense of the Senate on the declassification and release to the public of certain portions of the Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001, and to urge the President to release information regarding sources of foreign support for the hijackers involved in the terrorist attacks of September 11, 2001.

Dorgan amendment No. 1429, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Salazar amendment No. 1421, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation.

Salazar amendment No. 1422, to provide that certain local educational agencies shall be eligible to receive a fiscal year 2005 payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965.

Salazar/Reed amendment No. 1423, to provide for Department of Defense support of certain Paralympic sporting events.

Collins (for Thune) amendment No. 1489, to postpone the 2005 round of defense base closure and realignment.

Collins (for Thune) amendment No. 1490, to require the Secretary of the Air Force to develop and implement a national space radar system capable of employing at least two frequencies.

Collins (for Thune) amendment No. 1491, to prevent retaliation against a member of the Armed Forces for providing testimony about the military value of a military installation.

Reed (for Levin) amendment No. 1492, to make available, with an offset, an additional $50,000,000, for Operation and Maintenance for Cooperative Threat Reduction.

Hatch amendment No. 1516, to express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force.

Inhofe amendment No. 1476, to express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission.

Allard amendment No. 1383, to establish a program for the management of post-project

completion retirement benefits for employees at Department of Energy project completion sites.

Allard/Salazar amendment No. 1506, to authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims.

McCain modified amendment No. 1557, to provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

Warner amendment No. 1566, to provide for uniform standards and procedures for the interrogation of persons under the detention of the Department of Defense.

McCain modified amendment No. 1556, to prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

Stabenow/Johnson amendment No. 1435, to ensure that future funding for health care for veterans takes into account changes in population and inflation.

Murray amendment No. 1348, to amend the assistance to local educational agencies with significant enrollment changes in military dependent students due to force structure changes, troop relocations, creation of new units, and realignment under BRAC.

Murray amendment No. 1349, to facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom and to assist school districts serving large numbers or percentages of military dependent children affected by the war in Iraq or Afghanistan, or by other Department of Defense personnel decisions.

Levin amendment No. 1494, to establish a national commission on policies and practices on the treatment of detainees since September 11, 2001.

Hutchison amendment No. 1477, to make oral and maxillofacial surgeons eligible for special pay for Reserve health professionals in critically short wartime specialties.

Graham/McCain modified amendment No. 1505, to authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

Nelson (FL) amendment No. 762, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

Durbin amendment No. 1428, to authorize the Secretary of the Air Force to enter into agreements with St. Clair County, Illinois, for the purpose of constructing joint administrative and operations structures at Scott Air Force Base, Illinois.

Durbin amendment No. 1571, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Levin amendment No. 1496, to prohibit the use of funds for normalizing relations with Libya pending resolution with Libya of certain claims relating to the bombing of the LaBelle Discotheque in Berlin, Germany.

Levin amendment No. 1497, to establish limitations on excess charges under time-and-materials contracts and labor-hour contracts of the Department of Defense.

Levin (for Harkin/Dorgan) amendment No. 1425, relating to the American Forces Network.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, we come back for a final week before our recess with a number of important items, many of which are the culmination of many months of work. It will be a challenging week in order to accommodate the range of issues. I will mention a number of those that will be addressed. I do hope all of our colleagues will consider the importance of addressing each of these and doing it in a timely way that respects people's schedules and gets us out at the end of this week. It is going to be a real challenge, but it can clearly be accomplished if we all work together in a collegial and civil way as we go.

This morning we will resume debate on the Defense authorization bill. Under the order, there will be 20 minutes remaining for debate to be used on the Collins and Lautenberg amendments on contracts. Following that time, we will proceed to a series of votes. We will be voting on the Collins amendment. Following that, we will vote in relation to the Lautenberg amendment. Following that, we will vote in relation to a Boy Scouts amendment. That will be followed by a cloture vote on the pending Defense authorization.

If cloture is invoked, we will stay on the Defense bill until that is completed, something I am very hopeful we will be able to do shortly. If cloture is not invoked, we would proceed to a cloture vote with respect to the motion to proceed to the gun manufacturers liability bill which we also will address this week. These cloture votes will allow the Senate to complete these two important measures.

In addition to that, we have a number of additional items, including the conference report on energy, the conference report on highways, and then there are a number of appropriations conference reports that may become available in addition to these measures. We are looking at the issue on Native Hawaiians and a death tax issue. We have a lot of work to do in a very short period of time. We clearly will be working through Friday of this week and, if it means going into the weekend to complete the work, we are prepared to do that.

THE BOY SCOUT JAMBOREE

Mr. FRIST. Mr. President, very briefly, I want to mention—I know the Senator from Alaska has a comment—our sympathy for the tragic events that have occurred at the Boy Scouts Jamboree. Our thoughts and prayers are with the many families who have been affected so directly. We will continue to reach out over the course of the day for the tragic event that occurred there.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

CLOTURE VOTES

Mr. REID. Mr. President, I would, through the Chair, ask the distinguished majority leader if the majority leader would agree that we would continue on the Defense bill, vitiate cloture on it and the gun bill, and finish the Defense bill by a time certain, say Thursday at 7 o'clock in the evening? We would try to work through our amendments. We would have time agreements on amendments. We would have the two managers of the bill set us up so we could vote on these, Republican and Democratic amendments, work through all these. I have a more extended statement I am going to give in a little bit, if we can't work something out on this. I will ask unanimous consent, but I would ask the distinguished Senator from Tennessee if he would consider a unanimous consent agreement that will allow us to finish this bill by a time certain on Thursday and, following that, in fact, what I think would be most appropriate is we finish the very important Defense bill this week, and the second we get back in September move to the gun legislation.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Through the Chair in response to the Democratic leader, we laid out a plan at the end of last week where we can stay on the Department of Defense authorization bill. We have filed cloture to bring some order to that process. We will have the opportunity to vote on cloture this morning. I expect cloture to be invoked. We should finish the Defense authorization bill. I have also made it clear from this desk and on the floor that we are going to finish the gun manufacturers liability bill before we leave. That makes it challenging because we have the very important Department of Defense authorization bill, but we have a plan and a way to finish that by invoking cloture this morning, finishing with that issue, and then moving directly to the gun manufacturers liability bill. Therefore, I do not believe we need—in fact, I know we don't need a unanimous consent agreement in order to accomplish that. So at this juncture we will stay on the plan, the Department of Defense cloture vote this morning—and I expect it would be invoked—finish that bill and then proceed to the gun liability bill.

Mr. REID. Mr. President, I ask through the Chair if the Senator from Tennessee, the distinguished majority leader, has a statement to make. Otherwise, I have a statement I am going to make this morning.

Mr. FRIST. I do not have a statement this morning. Following the Democratic leader's statement, I believe the Senator from Alaska has a brief statement to make as well.

Mr. REID. Mr. President, I heard the Senator from Alaska say he needed a minute or two. I would be happy, if he wants to do that at the present time, to allow the President pro tempore of

the Senate, the most senior Member of the Senate, to give a statement. Then I will give mine.

Before the leader leaves the floor, I will use leader time. I don't think I will need to use more than the 10 minutes, but that would push the votes back 10 minutes. I think everyone should be entitled to the time they have. Is that OK with the leader?

Mr. FRIST. Yes.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Alaska is recognized.

BOY SCOUTS JAMBOREE TRAGEDY

Mr. STEVENS. Mr. President, let me thank the two leaders for their courtesy.

Last Thursday it was my privilege to meet on the Capitol steps with a group of Boy Scouts from my State, 71 young Scouts and 9 adults, which included 5 distinguished Boy Scout leaders. As we all know, we have heard the news, a tragic accident occurred at Fort A.P. Hill, and four of those leaders have passed away. Another is seriously injured. It has been a shock to the Alaska community, certainly a shock to the Jamboree. We are working with the Army. This occurred on an Army base, and there is a CID investigation going on, as well as a Virginia State investigation, to determine the cause of this tragedy. Clearly, there are 71 young men down there who are very shocked and very disturbed over this tragedy.

I want to thank the leader for his comments and the Chaplain for the mention of these men in his opening prayer. It is impossible for us to fathom a tragedy of this sort. In any event, I want to say to the Senate and to the Alaskan people we will do everything we can to help these young men and to comfort them and make certain they are cared for in this period of mourning the loss of these distinguished Boy Scout leaders.

I ask unanimous consent that statements that appeared in the Anchorage Daily News this morning about this incident and from the Washington Post reporting on the incidents be printed in the RECORD.

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

[From the Anchorage Daily News, July 26, 2005]

ALASKA SCOUT LEADERS DIE NEAR D.C.

(By Katie Pesznecker and Lisa Demer)

Four Boy Scout leaders were killed in Virginia on Monday, the opening day of the organization's national Jamboree, when a metal tent pole they were holding hit a power line and apparently ignited the canvas tent above them, according to Scout officials and witnesses.

Officials late Monday confirmed the leaders who died are Ron Bitzer, Michael Lacroix and Michael Shibe of Anchorage and Scott Powell, who moved to Ohio last year.

A fifth Alaska Scout leader, Larry Call, and an unidentified contractor were hospitalized with injuries, according to Boy Scout officials. Call is being treated at a Virginia hospital burn unit, said his wife, Paula Call.

No children were seriously injured, but about 30 Alaska Scouts saw the accident happen some time between 12:30 p.m. and 1 p.m. Alaska time at Fort A.P. Hill, an Army base about one hour south of the nation's capital.

Karl Holfeld, an Anchorage father, said his 15-year-old son, Taylor, witnessed the accident. Taylor was on his cell phone talking to his mother in Anchorage when the accident occurred.

''They all started screaming,'' Holfeld said. ''He said, 'Oh my God, oh my God, the tent is on fire, they're being burned!' And she told him to stay away, to not touch anything, because there could be a live wire.''

Paula Call spoke to her husband and others after the accident. The group of men was erecting a large tent, like a circus tent, she said. She didn't know what it was for.

''As they got it up, this pole started to lean and it touched a utility live wire,'' Paula Call said.

She hadn't heard about the fire but said her husband suffered electrocution burns on his hands, hips and feet. His condition improved during the day and he will recover, she said.

The Calls' son Kendell, 15, saw the accident but is too upset to talk about it in detail, Paula Call said. A second son was also there. Witnesses told her Kendell reacted quickly to help his father.

Her husband ''was just concerned about the boys. It was the most horrific thing he knows they will ever witness,'' she said.

The Scouts were taken from their camp to meet with grief counselors and a chaplain, said Renee Fairrer, director of National News and Media for the Jamboree.

Seventy-one boys and nine adults were traveling with the Jamboree contingency representing the Western Alaska Council of Boy Scouts of America. Bill Haines, executive director of the council here, said others came from Juneau and Fairbanks.

Jamboree leaders are ''the cream of the crop,'' he said. ''They were the best we had.''

Of the men who died, Shibe had two sons at the Jamboree, and Lacroix, who runs an Anchorage vending machine company, had one son in attendance, Haines said.

Holfeld had known both Bitzer and Shibe for years. Shibe and Holfeld earned their Eagle ranks together in the 1970s.

''We crossed paths at Scout things all the time,'' Holfeld said. ''They were just phenomenally effusive and so dedicated to the youth. They were enthusiastic gentlemen that totally believed in the Boy Scouts and showed that through their efforts and commitment.''

Bitzer and his wife, Karen, had recently sold their Anchorage home, and Haines said he believes they were preparing to move to Reno. He worked a couple of years as a Scout executive, Haines said. Bitzer was a retired administrative law judge and an assistant scoutmaster of Troop 129 in Anchorage, said family spokesman Ken Schoolcraft, the troop's scoutmaster.

Bitzer spent years running the Junior Leader Training Conference, a summer event at Camp Gorsuch on Mirror Lake, said Dylan O'Harra, 19, a former Anchorage Boy Scout who went to Bitzer's program.

''He was another guy who was dedicated to spending his time helping Scouts, helping kids advance and appreciate the outdoors,'' O'Harra said.

Powell was single and retired last year after a career in Boy Scouts. He had moved to Ohio but attended Jamboree at the last moment after a boy was unable to go, Haines said.

Powell had devoted years to Alaska Scouts, including more than 20 years as program director at Camp Gorsuch.

''For every kid who ever went to the camp, Scott Powell was the most inspirational and exciting guy that you've ever met,'' said O'Harra, who attended and worked at Camp Gorsuch. ''When you wanted to be on staff, you wanted to be on staff so you could be on Scott's team. He's the reason a lot of kids came back to the camp as counselors for years and years.''

Jamboree is a decades-old event and one of the biggest gatherings of Boy Scouts worldwide. The first, in Washington, D.C., in 1937, drew more than 27,000 people. Scout officials said attendance at this one, the 16th Jamboree, is expected to top 43,000 Scouts and leaders from the United States and 20 countries.

This is the seventh Jamboree at Fort A.P. Hill, nestled in the rolling hills of Caroline County, Virginia. Scouts swarm 3,000 acres. Within hours on Monday, cadres from various cities and states were expected to stake down some 17,000 tents and put up 3,500 patrol kitchens. The Scouts who attend are at least 12 years old and younger than 18.

Boys at the 10-day event do all things Scout-related—from biking to archery to kayaking. They earn merit badges and cook many of their own meals. Camp highlights include blow-out opening and closing arena shows that include Army Rangers parachuting in, fireworks exploding, folks singing and dancing. President Bush is scheduled to speak Wednesday night.

Alaska leaders split the kids into two groups: Troop 711 and Troop 712. They spent four days together touring Washington before arriving at Jamboree for opening day Monday.

Several adults from Alaska's group helped put up a large tent. It might have been a mess hall for the group or the sleeping quarters for the leaders, said Mike Sage, an Anchorage father who chaperoned Alaska Scouts at the last Jamboree four years ago.

The tent has a large metal pole as its center support and also poles at its corners. Men were reportedly holding on to those, Paula Call said.

It's unclear how the pole came in contact with the wire.

''They either hit the power line with the pole, or a truck went by and knocked the pole over,'' Holfeld said. ''Either way, the pole hit the power line, electrocuted them, set the tent on fire, the tent fell on them, and they were trapped underneath,'' with Scouts watching.

In interviews and press releases all day, Boy Scout officials referred to the incident as ''an electrical accident.''

A statement on the official Jamboree Web site said: ''Our prayers and sympathies are with the families of each of the victims. It is a tragic loss that is shared by everyone in the BSA. Counselors and chaplains are at the jamboree and available to any Scout or leader. A thorough investigation into this accident is under way.''

Fairrer said Boy Scouts of America is leading the investigation and working with the military.

People have died or been seriously injured before at Jamboree, Fairrer said. But she could not recall a catastrophe of this magnitude.

''And any time there's a death, it hurts all of us,'' Fairrer said. ''Within scouting, we are one big family.''

Gov. Frank Murkowski said in a statement early Monday evening that he was ''very saddened today to learn of the deaths of these four Scout leaders in such a tragic and unexpected accident. . . . These individuals were killed while serving Alaska's young people, and I admire and thank them for that service.''

The three boys whose fathers died are returning to Alaska, Haines said.

''The other boys who didn't lose their fathers are going to make a decision with their leaders about what to do.''

[From the Washington Post, July 26, 2005]

FOUR SCOUT LEADERS DIE IN VA. ACCIDENT

(By Karin Brulliard and Martin Weil)

FORT A.P. HILL, VA.—Four adult Scout leaders from Alaska were killed Monday afternoon at the Boy Scout Jamboree in an electrical accident that apparently occurred when a pole from a tent they were setting up struck an overhead power line, officials said.

Three others, a Scout leader and two contract workers, were injured in the accident, which happened a few hours after the official noontime opening of the jamboree. The gathering draws thousands of Scouts every four years from across the United States and many foreign countries.

No Boy Scouts were injured.

The leaders were from the Anchorage area and represented the Scouts' Western Alaska Council, an official of that council said. Bill Haines said two of those killed and the injured leader had children with them at the jamboree, about 75 miles south of the District.

''It's a very tragic loss for all of us,'' Haines said.

The children, he said, were coping. ''They are all being taken care of,'' he said.

Sheriff A.A. ''Tony'' Lippa Jr. of Caroline County said a preliminary investigation indicated that the pole had struck the power line but that authorities had not determined how it happened. ''We're not sure if the poles shifted,'' he said.

Scout officials gave no details of how the accident occurred, other than to say that it was between 4:30 and 5 p.m. while the camp for the Alaskans was being set up. One person with knowledge of jamboree operations, who spoke on condition of anonymity because an investigation is underway, confirmed that a tent-support pole touched an electric line.

After the accident, witnesses saw a slender pole that protruded through the apex of a pyramid-shaped tent and appeared to be touching one or more overhead lines. The tent was one of two at the Alaskans' site that appeared to be intended for use as a group gathering place rather than for sleeping.

One of the two light-colored tents apparently had been fully erected. The other tent, where the accident apparently occurred, was cordoned off with yellow tape. The Scouts who might have stayed in that area had been moved.

Haines, in a telephone interview from Alaska, said the four men who died ''were leaders in the Scouting community, longtime Alaskans. They were very instrumental in the council'' It was the first jamboree for one of the men.

Lippa said the ages of three of the four were 42, 47 and 58.

All those injured were in stable condition at hospitals, the sheriff said. None of the men's names was released last night.

Officials said late last night that they expected the jamboree to continue but were not certain whether any adjustments to the schedule or participation might be made. Bob Dries, volunteer chairman of the event's national news and media operation, said: ''I would expect the jamboree is going to carry on. Certainly, our sympathy is with the families. It's a sad day. The jamboree is about kids and having fun.''

Renee Fairrer, director of national news and media for the jamboree also said the event would go on. She said the Alaska contingent had been separated from the others.

Gregg Shields, a spokesman for the Boy Scouts, said chaplains and grief counselors were meeting with the Scouts from the Western Alaska council. Those Scouts are ''our primary concern right now,'' he said.

Haines said he did not know whether they would stay for the duration of the jamboree, which runs through Aug. 3. ''We're going to do what the troop wants,'' Fairrer said.

Other Scouts from the general area in which the accident occurred appeared to be taking part late yesterday in planned activities. Some were seen setting up cots or reading. A Scout-run camp radio station interrupted its normal broadcast to report the accident.

Fairrer said the accident was being investigated by the Boy Scouts and the U.S. Army, which operates the base in Caroline County, about 10 miles east of Interstate 95 on Route 301, just south of the Rappahannock River.

She said late Monday that 32,000 Scouts and an additional 3,500 leaders had assembled to live for 10 days in what is essentially a huge tent city on the grounds of the base. President Bush is scheduled to address the gathering Wednesday night.

The accident, Fairrer said, occurred at the eastern edge of the campsite, which she estimated at seven to 10 miles from the fort's main gate. The base is about 76,000 acres; the Scouts are using about 5,000. Jamboree representatives said as many as 17,000 two-man tents might be pitched.

The site is supplied with electricity by the Rappahannock Electric Cooperative, Fairrer said. The utility last night said it was assisting in the investigation.

Over the past weekend, some of the Scouts have been in Washington, swarming over the Mall and through the monuments, a blur of khaki and neckerchiefs and patch-covered shoulders.

Hundreds of buses pulled into the military base yesterday to disgorge Scouts by the thousands. Officials said they came from 50 states and 20 foreign countries. At least 400 Scouts from the Washington region were scheduled to be on hand.

The jamboree has been held at the military base since the 1980s.

Mr. STEVENS. Again, I thank the Senate and the leaders for their courtesy.

The PRESIDING OFFICER. The minority leader is recognized.

CLOTURE ON DEFENSE AUTHORIZATION

Mr. REID. Mr. President, Members heard the colloquy between the distinguished majority leader and this Senator. I ask unanimous consent that the time I use not apply to any of the order now before the Senate with regard to the four votes that are pending.

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

Mr. REID. I was in Chicago over the weekend at an event. I talked to a well-dressed, very articulate man. I didn't realize he was as old as he was, but I learned later he was 83 years old. His name is Green. He had served in the South Pacific for 3 years during World War II. All those islands we hear so much about, he was on all of them, carrying a rifle, fighting for our country.

This morning I thought about Mr. Green. In World War II, do you think the Senate would have spent a matter of a few hours on the Defense bill? I don't think so. During World War II, Senator Truman, among others, debated very vociferously whether there should be an investigation into how money was being spent by the military and the Government generally. It was controversial, but it was debated. Senator Truman's actions carried.

What are we doing here today? What are we doing here today? A bill involving 1.4 million active-duty men and women serving in uniform for our country and a million Guard and Reserve, approximately 2.5 million men and women serving this country in Iraq, Afghanistan, Korea, Germany, all over the world, a bill that is costing the American taxpayer during this year approximately $450 billion—that doesn't count the usual emergency supplementals that are not part of this process involving tens of billions of dollars—we are going to spend on this bill a few hours. To this point we have not had a single vote on a Democratic amendment. It is unconscionable to do this, to end debate on these amendments that help our country.

Just a few of them. Concurrent receipt is something I have worked on with the two managers of this bill for 4 years. What is concurrent receipt? Is it important to the military? It absolutely is. Prior to the 4 years this Senate worked on it, a person who retired from the U.S. military who was disabled could not draw his disability benefits and his retirement benefits. If you are retired from the military with a disability and you worked at Sears, you could draw both, or if you worked at the Department of Interior, you could draw both. But not from the military. We have changed it. We have not changed it enough, but we have changed it a lot and it is helpful. But we need to continue to work with these disabled American veterans to get them the money they have earned and they deserve and which this country is obligated, in my opinion, morally to pay them. We won't have an opportunity to do that on this bill because in an hour or so cloture will be invoked.

Senator NELSON from Florida wants to offer an amendment authorizing surviving spouses to receive both survivor benefit plan annuity benefits and indemnity compensation, and they should be able to get both.

Senator KERRY wants to make permanent the temporary authority, including the emergency supplemental for dependents of service members who die on active duty to remain in military housing for 1 year after the person has been killed in the line of duty. That is not asking too much. We would like that amendment to be offered. We want to improve this bill. We are not trying to tear the bill apart. We want to improve it.

Senator LIEBERMAN and others want to increase the size of the military by 20,000 a year for the next 4 years. I believe in this amendment, but we very likely will not have the opportunity to have that voted on.

Senator MURRAY has a childcare amendment that would help members

of the U.S. military have their children taken care of while they are on active duty.

Senator DURBIN has an amendment to require Federal agencies to pay the difference between military and civilian compensation for National Guard and Reserve. This is something we very likely will not have the chance to vote on.

Senator LEVIN has an amendment that would provide $50 million to cooperative threat reduction to meet the new opportunity to provide security upgrades to 15 key Russian nuclear weapons sites.

Last week a report was issued by former Secretary Bill Perry that said the No. 1 problem the world faces is loose nukes. That is what this is all about.

This is a bill that is so vitally important. It is important in dealing with veterans health care benefits. It is important in dealing with Guard and Reserve, base closure, our war on terror, impact of sustained military operations to our troops and their families, detainee abuse.

Republicans have joined with Democrats in saying let's take a look at what has gone on with how we treat prisoners of war—a bipartisan amendment. We can read in any paper in the United States that last week the Vice President of our country had been calling people at the White House, Members of the Senate, to tell them not to do that. Why? What are we afraid of? This is an open society. This is the United States. We won't be able to offer that amendment. Is that why this bill is being taken away from us? Because the administration has said we don't want you to look at what has gone on in Guantanamo, Abu Ghraib, and other such places? This majority leader, apparently under pressure from this administration, decided we were not going to deal with these important issues this year. Rather than putting our troops and our Nation's security first by letting the Senate work its will on these important issues, the majority leader and this administration decided to prematurely cut off debate.

It is unheard of to do what is being done here. The hue and cry will go forth from this majority we have here saying these awful Democrats are trying to hold up the Defense bill. Hold up the Defense bill for a couple of days?

We believe we have an obligation, we Democrats believe we have an obligation to face difficult issues and not run from them, including the embarrassment of what went on in our prisons at Guantanamo and Abu Ghraib. We believe it is important to deal with weapons of mass destruction in this bill. Unfortunately, that is precisely the choice the majority leader is forcing this body to make today. If we do not invoke cloture on this bill and forego our right to offer these important amendments, the bill is gone. We are not going to be able to take these things up.

This work period is ending. We are going to go home. We are going to come back in September. The fiscal year is on top of us. We have the Roberts nomination that will take a little time on the Senate floor after the Senate Judiciary Committee completes its important work. What are the Republicans afraid of?

There is more to this than the administration simply wanting to cut off debate because of embarrassment to them about talking to these issues. The Republican leadership is also engaged in a very cynical ploy here today. They have pitted the interest of a very powerful special interest group against this Nation's security needs. Rather than spending the time needed to carefully consider critical national security issues—and I think that is something that again we need to focus on, national security issues—the Republican leadership has decided it is more important that the Senate instead take up gun legislation. I support the legislation, but let's be realistic about this. Legislation that would trump the men and women of America who wear the uniform of our country? I don't think so. I don't think it is a fair match. No matter how you may feel about gun legislation, it is not a match to allowing us to proceed on the Defense bill as we have done traditionally in this body.

I recognize we have wasted a lot of time in the Senate, spending one-third—one-third—of the Senate's time on voting on three judges. Every one of the people who was made a judge had jobs already. One-third of the Senate's time was spent on three judges. So I know we are crimped for time around here because of that. But we are going to take gun legislation and compare it to the men and women who I visited out at Walter Reed laying in those hospital beds. Think of my friend, my new friend, Mr. Green from Chicago, World War II veteran, proud of the service he made to this country. He gave to this country. What we are doing here today, would it ever have happened during World War II? No. I think it would be unfortunate if the Senate were to vote to end debate today, but this is a position individual Senators can pick. I haven't twisted any arms. Senators can do what they want to do.

What would be the best of all worlds is we could have a bipartisan opposition to this invocation of cloture today. That is what should happen. There should be a revolt by my friends on the Republican side to cut off debate on this bill at this time.

This is an embarrassment to this body. It should be an embarrassment to the majority. This is something that is going to be around for a long time. What is going to be around for a long time is how we have been treated on this legislation. Who is we? The American people.

I have only mentioned a few. I don't know how many amendments we have pending—probably 30 amendments already that have been laid down. We have had several others. The last time cloture was invoked on this bill we had already acted on 80 amendments, after days and days of debate. That is what it is supposed to be. And we are not asking for days and days. We are saying we will finish the bill by Thursday. Today is Tuesday.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. REID. I am happy to yield to the Senator.

Mr. DURBIN. I would like to clarify what we face at this moment. If I understand what the minority leader has said to the Senate, we have pending amendments before the Senate on the Department of Defense authorization bill which will not survive, are not likely to survive, cannot even be considered because of this procedural decision by the majority leader, by Senator FRIST. And if I understand what the Senator from Nevada has said, he has said that included in the amendments which will fall, will not be considered this week, would be an amendment he wants to offer to help totally disabled veterans, an amendment by Senator NELSON of Florida to provide funds for the widows and orphans of those who die in combat, an amendment by Senator KERRY to provide for housing for 1 year for the family of a soldier who dies in combat, the amendment by Senator MURRAY to provide childcare for soldiers' families when the soldier is deployed overseas, and my amendment to make up the pay difference for National Guard and Reserve who are activated and lose money from their civilian pay. And if I understand the Senator from Nevada, he is saying these amendments, these five or six I have read, we have been told we won't have time to consider this week.

If I understand the Senator from Nevada, he has said we don't have time to deal with the totally disabled veterans, the widows and orphans of those who fall in combat, and those Guard and Reserve members who are activated, we don't have time for that because we have to move to a bill for the gun lobby, for the National Rifle Association.

If I understand what the Senator from Nevada says, it is more important for us to do our best for the gun lobbyists in their three-piece suits than for the men and women in uniform who are fighting and dying for our country. That seems to me to be the agenda and the priority of the majority leader who has come to the floor today.

Is that my understanding of what the Senator from Nevada has said?

Mr. REID. I say through the Chair to the distinguished Senator from Illinois, yes. We have been reasonable. I believe there is no jury you could have in the world that would think we are doing other than the right thing, asking for a couple days to improve a bill that will give benefits to 2½ million Americans serving in uniform and a bill that is going to cost the taxpayers $450 billion

in 1 year. We want to spend a couple days on this bill and we are not being allowed to because the administration is pushing them and the gun lobby is pushing them.

Look, I am not opposed to everything the administration does. I am not opposed to everything the gun lobby does. But I am opposed to what the administration is doing in this instance and the gun lobby in this instance because it is wrong for the people of our country.

Mr. DURBIN. I ask further if I could ask a question of the Senator from Nevada through the Chair. Is it my understanding the Senator from Nevada came to the floor and gave the Republican leader his assurance that these amendments would be considered in a timely fashion and that we would agree that this bill, the Department of Defense authorization bill, would be passed from the Senate this week, no later than Thursday evening, in plenty of time so that it will be there for the administration and for the conference committee to consider, so there would be no delay, so we could take up in a timely fashion amendments to help the totally disabled veterans, amendments to help the widows and orphans of those who have fallen in combat, amendments to help the Guard and Reserve when they are activated so their families can stay together? Did the Senator from Nevada give that assurance to the Republican leader, Senator FRIST, that we are not trying to delay this unreasonably but want to move it through quickly, consider these amendments in a timely fashion, vote up or down and move to final passage this week?

Mr. REID. The answer is yes. I also say, Mr. President, so there is no problem later on, so everyone understands the quandary we are in—but we didn't get us there, we didn't spend a third of our time on three judges—here is the quandary we are in. As I understand the rules, if cloture is invoked on the Defense authorization bill, we will finish it sometime Wednesday evening. Then there will be a vote that will occur automatically on the gun handling bill legislation and then there will be 30 hours to debate the motion to proceed on the gun legislation. Senator REED from Rhode Island has told me he wants to use all that 30 hours, he or some combination of Senators, so that will end sometime around midnight on Thursday. And then if the majority leader wants to continue the presentation of the gun legislation, there would have to be cloture filed again for a Saturday vote or maybe even have a Friday vote if he does it Friday before midnight, and then there is another 30 hours to go forward on the gun legislation. And during that period of time no other business can be conducted.

I have spoken with the majority leader about this issue. There will be a small window of time on Wednesday between whatever time the 30 hours runs out at midnight, if he decides to continue on the gun legislation, that we can in the few hours do the Energy conference report, Interior conference report, highway conference report, legislative branch conference report, and whatever else is available.

The time spent on judges has put this Senate in a real difficult position, notwithstanding that the majority leader promised the Senators from Hawaii they can do the Native Hawaiian bill.

I want everyone to understand what they are walking into. The best would be to defeat cloture. Senators from the majority side should join with us to defeat cloture, finish the bill in the ordinary course, and do whatever would come naturally after that, which would be a motion to proceed to the gun liability legislation.

Ms. STABENOW. Mr. President, will the Senator yield for a question?

Mr. REID. Yes, I yield for a question.

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

Mr. REID. I have yielded to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, let me raise an issue and ask a question. We have spent time in this Chamber trying to address an immediate shortfall in veterans health care funding. Senator MURRAY has brought this to our attention. We have yet to see this resolved. We have gone back and forth about whether we are going to provide adequate funds now for our veterans.

Is it not true that one of the amendments—and I know this is true because I offered an amendment that would address this situation long term—where instead of coming back and forth constantly trying to figure out whether we are going to have the veterans funding year to year so our veterans do not stand in lines, wait months to see a doctor, and not receive what they need, isn't it also the understanding of the Democratic leader that my amendment that would address permanently the issue of veterans funding, therefore guaranteeing that when our brave men and women come home from the wars, end their service, and become veterans, that they would be assured we will keep our promise to them as it relates to full funding of veterans health care, is it the Senator's understanding that this amendment would also fall, we would not have the opportunity to address this issue in this bill?

Mr. REID. Mr. President, we have been told that this amendment would fall. This amendment, which has already been filed, would fall postcloture. People would not have an opportunity to vote on this amendment.

I will also say, one of the points I mentioned during my statement is the Interior bill is coming up. We promised that would come up before we leave because there is $1.5 billion in that bill for veterans' benefits for this fiscal year because they have been so shortchanged.

I yield for a question from my distinguished chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished friend and Democratic leader. I ask a very narrow question. He has pointedly raised three or four amendments that address the benefits that could go to veterans or active.

The Senator from Nevada has been a leader every year that this bill has been brought up on a variety of issues, and no one takes the place to his fervor in trying to provide particularly for the concurrent receipt legislation. But I have to say to my good friend, and my question is, am I not correct that this bill came up Wednesday night, and Senator LEVIN and I were on the Senate floor into the evening, this bill was on the floor Thursday right up until early evening and again Friday morning? Every one of those bills—concurrent receipts, I remember specifically asking Senator NELSON of Florida: Could you not bring up that bill early? He said: No, I am going to wait until Tuesday. That is all he said.

I have to say, I believe I am correct that all of those pieces of legislation that were mentioned could have been brought up Wednesday, Thursday, Friday, and addressed by the Senate.

Mr. REID. Mr. President, I say to my distinguished friend, I have sat side by side with him in the Environment and Public Works Committee for many years now and have the greatest respect for him. In this instance, he is just absolutely wrong.

On Wednesday, this bill was taken up late in the afternoon, with time for opening statements. On Thursday, there were no votes after 6 o'clock in the evening. Friday, no votes. Monday, no votes. As has been mentioned here on the floor of the Senate by me, among others, on many different occasions, we cannot have work done here when we cannot have votes on amendments. Fridays have become no-work days. If there are no votes, we do not get anything done here. So I say to my distinguished friend, I don't know when they should have offered amendments. I don't know when Senator NELSON should have offered them. The point is, we have said we will finish this bill by Thursday at 7 o'clock. Pretty good time. It would give us today, tomorrow, and Thursday to complete this bill. This would be far shorter than the time we normally spend on this bill. Tuesdays, Wednesdays, and Thursdays is when we vote around here. I think we should vote on Fridays and Mondays, but we do not. The Monday vote is a meaningless vote, in my opinion, to get people back here.

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

Mr. REID. I will be happy to yield.

Mr. LEVIN. Is it not also true that these amendments, plus many others, have been offered, and people would

have been perfectly happy to have votes on them if they were permitted, but votes were not permitted, so they had to be temporarily laid aside so others could be offered? But the idea that those people who offered those amendments would not have been happy to have votes on those amendments is not right.

Mr. REID. I say to my friend through the Chair, not only is it true that those amendments have been filed, they were required by the rules of the Senate to have been filed because there was a 2 o'clock cutoff for the amendments to be filed.

Mr. LEVIN. And are pending; is that correct?

Mr. REID. Yes. I don't know how many.

Mr. LEVIN. Over 40.

Mr. REID. In addition to that, I think there are a couple hundred amendments filed by both sides. As happens here, with the cooperation of these two fine managers, we work down the number of these amendments and only go to the most important ones. That is what we said we would do. I think it is a shame that we are going to be taken off this bill in about an hour. It is not good for this body, it is certainly not good for this country, and it is certainly not good for the 2.5 million people we respect so much who serve our military.

AMENDMENT NO. 1377, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes equally divided between the Senator from Maine, Ms. COLLINS, and the Senator from New Jersey, Mr. LAUTENBERG.

The Senator from Maine.

Ms. COLLINS. Mr. President, the Senator from New Jersey has shed much needed light on a disturbing problem, and that is the improper use of foreign subsidiaries by U.S. firms to conduct business in certain rogue nations where they might otherwise be barred from doing business by U.S. sanctions laws.

Like the Senator from New Jersey who has been a real leader on this issue, I have been very disturbed to read of allegations that foreign subsidiaries of some of the best known American corporations have been conducting operations in countries such as Iran and Syria, even though U.S. sanctions laws prohibit their U.S. parents from doing so directly. There are allegations that some of the subsidiaries in question are not even real companies but, rather, they are shell corporations that were created just for the purpose of evading the law.

These reports highlight that our sanctions laws are not as tough and as effective as they should be. In seeking a solution to this problem during the past year, I have consulted extensively with the Treasury Department, the State Department, and other experts. It turns out to be very complicated and presents a technical set of legal and foreign policy issues to accomplish the goals that both the Senator from New Jersey and I share.

Let me try to frame the choice that is now before our colleagues.

We have before the Senate two proposals designed to extend the reach of U.S. law, specifically the International Emergency Economic Powers Act, or IEEPA, to cover companies doing business with countries covered by U.S. sanctions laws.

Let me explain what my proposal would accomplish. It does four things. First, it would extend IEEPA to prevent U.S. companies from trying to evade the law by moving operations overseas.

Second, my amendment would prohibit U.S. companies from approving, facilitating, or financing actions that are illegal under IEEPA.

Third, it ratchets up the penalties for violations of the law from $10,000 per civil violation and $50,000 per criminal violation to $250,000 and $500,000 respectively.

And fourth, it ensures that the Treasury Department has the subpoena power it needs to enforce the new sanctions.

Let me explain what it would not do. Most important, my proposal would not jeopardize our working relationships with key allies by attempting to assert U.S. jurisdiction on companies that operate and are incorporated elsewhere.

Second, it will not provide yet another incentive for American companies to move their jobs overseas through corporate inversions.

These are the main problems with the approach of my colleague from New Jersey. Again, I emphasize that I share the same goal as my colleague from New Jersey, and I salute him for focusing much needed attention on a very real problem.

Let me explain further. My colleague's amendment attempts to impose sanctions on businesses operating and incorporated in foreign countries. So, for example, if a U.S. firm has a subsidiary in Great Britain, my colleague's amendment proposes to extend U.S. law to that subsidiary, even if U.S. law is inconsistent with British law.

This is a dangerous and imperious approach to foreign policy. If other countries tried to impose similar rules on us, imagine how we would respond. For example, imagine if Saudi Arabia tried to impose criminal and civil penalties on a Saudi firm's U.S. subsidiary operated and incorporated under the laws of our country because that firm was doing business in Israel, or imagine if Germany attempted to impose sanctions on a German firm's American subsidiary, again operating here under our laws and regulations, for not meeting German labor laws that are inconsistent with our laws.

Moreover, my colleague's amendment would create the perverse incentive for American firms to invert or move overseas in order to avoid the onerous and extraterritorial application of our sanctions laws. We must not choose that path.

There is a very real problem here with some American companies exploiting an exception that is in the current law, but I believe that the proposal I have advanced would greatly strengthen our laws, would provide new tools for enforcement, and would enormously increase penalties for violations.

It would make crystal clear that a U.S. company is prohibited from in any way approving, facilitating or financing actions of a subsidiary that would be illegal under the sanctions law.

I reserve the remainder of my time.

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

Mr. LAUTENBERG. Mr. President, I extend my thanks to the Senator from Maine for her graciousness, in terms of describing an effort we are both very much interested in, in solving a problem that exists before us. Very soon, the Senate is going to vote on the two amendments, both of them aimed at foreign subsidiaries doing business with terrorist nations. But only one of these amendments—and it may not come as a surprise, mine—gets the job completely done.

I have great respect for the Senator from Maine. She works very hard to chair a committee on which I sit, the Homeland Security and Governmental Affairs Committee, and accomplishes a lot. But unfortunately, in this case, the amendment she offered will not close the loophole we are concerned about, nor will it stop American businesses from doing business with terrorist nations such as Iran.

It recognizes the seriousness of the problem but unfortunately, as it is presented, does not solve the problem. Iran is one of the world's largest state sponsors of terrorism. Nobody doubts that. Every year, the Iranian Government funnels tens of millions of dollars to Hamas and Hezbollah and Islamic Jihad, to name a few. These organizations turn around and use that money to murder Americans and others who are trying to live their lives. No American company should be permitted to help them in any way, either directly or with a sham corporation.

Iran also uses its oil revenues to fund its nuclear weapons program. Once again, through sham corporations, American companies are helping them develop those oil revenues. Revenues, for what purpose? The purpose is to attack our people and other innocents across the world. That is why we do subject Iran to one of the strongest sanction regimes that we have. But some American companies exploit a loophole in our sanctions laws. They go offshore, open a sham foreign subsidiary and use that foreign subsidiary to do business with the Iranian regime with impunity and help create profits for them to be used for any purpose they choose.

This has to stop. In the past, I believe the Senator from Maine agreed

with me that this has to stop. In fact, last year she supported my amendment. So I am hopeful that she will once again vote for my amendment. I am going to vote for hers.

I want to be clear. I have no objection to the Collins amendment, and I am going to vote for it, as I said, as a signal that we must do something to stop supporting these avowed enemies of America. The Collins amendment is not a bad amendment, but it only codifies existing regulations that, frankly, are not enough. It confirms what we have now and permits companies to escape sanctions.

In the case of Cuba, we do not allow, any American company to use a sham to do business there. We ought not permit Iran to do the same things.

If we want to close this loophole, my amendment is the only one that accomplishes it. Under the Collins amendment, the scenario on this placard is still possible. Here is a U.S. corporation. Here is a foreign subsidiary of the U.S. corporation. They can do business with Iran, who then sends funds to Hezbollah, Hamas, and other terrorist organizations. They have their subsidiaries operating in other places. But they should not have subsidiaries that are allowed to do business in this way.

We want to strengthen existing law. The way we do it is to explicitly say that any foreign subsidiary, controlled by an American company, must obey our sanctions.

The senior Senator from Michigan pointed out last week that the standard we have, the sanctions standard, already applies to foreign subsidiaries that do business in Cuba. I repeat what I said before. My amendment simply applies the same rules to terrorist states such as Iran.

I ask my colleagues, is fighting al-Qaida really less important than fighting Castro? If you vote no on this amendment, that is what you are saying.

My amendment is simple and straightforward. It makes clear we will not allow foreign subsidiaries of U.S. companies to provide funds to Iran. It is common sense. That is why a conservative group, the Center for Security Policy, supports my amendment. Frank Gaffney, who is president of the Center for Security Policy, said in the Washington Times today:

> If the Senate is serious about truly closing this loophole, it must adopt the Lautenberg amendment.

That is from Frank Gaffney, president of the organization.

We have to stop U.S. companies from doing business with terrorists when they intend to murder innocent Americans. I ask my colleagues, please support my amendment. Families across this country do what they can to protect their loved ones and we can do no less. Every day we wait to close this loophole, more and more money flows into the hands of terrorists. For the sake of our troops, for the sake of our citizens, we have to shut down this source of terrorist funding.

I again restate my intent. My intent is to support the Collins amendment because it does open our eyes a little bit further to the problem. But I hope, if we really want to solve this problem, the Lautenberg amendment is the one that will finally be voted for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, again I commend the Senator from New Jersey for focusing attention on what is a very real problem, and that is that the current law is not tough enough and there are reports that subsidiaries of some very well-known American corporations are doing business in states where U.S. sanctions laws apply. But I think when you deal with this area, you need to be very careful to not craft a proposal that has unintended consequences.

Moreover, my colleague's amendment does not do what the Treasury Department's Office of Foreign Asset Control, OFAC, has specifically named as the legislative step that would be of most benefit to them, and that is substantially increasing the penalties in the current law.

My proposal would do that. Senator LAUTENBERG does not include increases in the penalties.

In addition, my proposal explicitly grants the Treasury statutory subpoena power to ensure that it has all of the enforcement tools it needs.

But let me go back to the underlying issue. The Collins amendment would be very specific in barring any action by a U.S. firm in approving, facilitating or providing financing for any action by its foreign subsidiary that would be unlawful for the parent company to engage in.

It would also prevent U.S. companies from evading the law by setting up a subsidiary overseas, a shell corporation. So I think the proposal that I have set forth greatly strengthens the current law.

We do not, however, want to create a perverse incentive that would encourage American companies to invert and reincorporate overseas, and I fear that could well be the result of the amendment of Senator LAUTENBERG.

I am concerned about something else, and I have given these examples. We don't want to open the door to foreign governments trying to impose on the American subsidiaries of firms incorporated in their countries, their countries' laws.

Let me give the example again. What if the Saudi Government tried to impose a restriction on doing business in Israel on the American subsidiary of a Saudi firm? We would be outraged about that.

This proposal raises many complex technical questions, and that is why the Treasury Department and the State Department have urged caution and much prefer the approach embodied in the Collins amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. How much time remains?

The PRESIDING OFFICER. The time of the Senator from Maine is expired. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I appreciate that clarification.

I ask the Senator from Maine, under your amendment, is it possible for a foreign subsidiary owned and controlled by a U.S. company to do business with Iran?

Ms. COLLINS. Mr. President, if the Senator would yield from his time, I would be happy to answer that question.

Mr. LAUTENBERG. I respect the Senator from Maine and do allow time for an answer, if it is a short answer, please.

Ms. COLLINS. Mr. President, under my amendment, it is very clear that an American parent could not in any way be involved in a subsidiary's decision to do business in a prohibited nation. It could not approve it. It could not facilitate it. It could not direct it. It also could not set up a subsidiary for the purpose of evading the law.

Mr. LAUTENBERG. If the Senator would yield for a question on my time. Can a subsidiary do business with Iran?

Ms. COLLINS. The subsidiary could not do business if it were in any way directed to do so, approved, financed, in any way, by the American parent. The language is very clear on that.

Mr. LAUTENBERG. I think the conclusion is in error. Rather than have the debate about the precision with which the Collins amendment is drawn, I point out two things. AIPAC and the Cuban American National Foundation support my amendment. That is very specific.

In the reference used about a Saudi company doing business with Israel, Saudi Arabia already boycotts Israel, so that question is taken care of.

I fail to see, I must say, why we are going through these gyrations explaining a perverse effect when, in fact, what I want to do is stop any—by the way, the practice is taking place, currently.

What the Senator from Maine has done is codify regulation. I want to stop any possibility for a sham corporation that wants to evade our laws to do business. That is where we are.

I hope my colleagues will support my amendment.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. LAUTENBERG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The first question is on the amendment of the Senator from Maine.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—98

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

NOT VOTING—2

Craig	Rockefeller

AMENDMENT NO. 1351

The PRESIDING OFFICER. At this time, there will be 2 minutes equally divided on the Lautenberg amendment, amendment No. 1351, on which the yeas and nays have been ordered.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we have just had a vote on the Collins amendment that confirms we have a problem. There is no denying there is a problem out there, but there is only one way to solve it; and that is to say that any American company cannot form a sham corporation and do business with Iran as is presently being done. We do not permit it in Cuba, and we should not permit it in any other place in the world. So I hope now I will get the same kind of support we have just seen because we want to cure the problem. This is the best way to do it.

The PRESIDING OFFICER. Who seeks time in opposition?

The Senator from Maine.

Ms. COLLINS. Mr. President, I respect the intentions of my colleague from New Jersey, but his proposal is overbroad. It is strongly opposed by the administration. I urge opposition to the Lautenberg amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—47

Akaka	Ensign	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Harkin	Murray
Bingaman	Inhofe	Nelson (FL)
Boxer	Inouye	Nelson (NE)
Byrd	Jeffords	Obama
Cantwell	Johnson	Pryor
Carper	Kennedy	Reed
Clinton	Kerry	Reid
Conrad	Kohl	Salazar
Corzine	Kyl	Sarbanes
Dayton	Landrieu	Schumer
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Wyden
Durbin	Levin	

NAYS—51

Alexander	DeMint	McConnell
Allard	DeWine	Murkowski
Allen	Dole	Roberts
Bennett	Domenici	Santorum
Bond	Enzi	Sessions
Brownback	Frist	Shelby
Bunning	Graham	Smith
Burns	Grassley	Snowe
Burr	Gregg	Specter
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Talent
Cochran	Isakson	Thomas
Coleman	Lott	Thune
Collins	Lugar	Vitter
Cornyn	Martinez	Voinovich
Crapo	McCain	Warner

NOT VOTING—2

Craig	Rockefeller

The amendment (No. 1351) was rejected.

Ms. COLLINS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, will the Chair advise the Senate as to the pending business.

AMENDMENT NO. 1342, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, a vote will now occur on the Frist amendment No. 1342. There will now be 2 minutes equally divided for debate. This will be a 10-minute vote. The subsequent cloture vote that has been scheduled will also be a 10-minute vote.

Who seeks time?

The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the majority leader, who is participating in a ceremony in the Rotunda, the Support Our Scouts Act of 2005—and I am a cosponsor—is a very important piece of legislation, particularly in the wake of the tragic events that occurred last night. It will help ensure that the Defense Department continues to provide the Scouts the type of support it has lawfully provided in the past, to include supporting the Scouts at their jamborees.

In this context, I thank Senator DURBIN for helping to refine the amendment's language to provide flexibility to the agencies that provide like support.

This amendment also ensures the Scouts have equal access to public facilities, forums, and programs that are open to other youth and community organizations. Boy Scouts, like other nonprofit organizations, depend on the ability to use public facilities and participate in these programs.

The Scouts are a youth organization, well known to every Member of this body, that is committed to developing qualities such as patriotism, integrity, honesty, and other values in our Nation's boys and young men. The amendment by the distinguished majority leader makes that goal clear.

As such, the amendment of the majority leader also makes clear that Congress believes the Boy Scouts should be treated the same as other national youth organizations.

I hope that all of my colleagues will join the 50-plus cosponsors of this legislation and vote with me and other supporters of Scouting.

Yesterday, July 25, tens of thousands of Scouts from around the country began arriving at Fort A.P. Hill in Virginia. Tennesseans, such as Bill and Diane Goins from Soddy Daisy, TN, have traveled great distances to participate. Vote for this amendment and let them know that Congress wants the Pentagon's support to the Scouts at their jamborees to continue.

Let's also let them know that not only is Defense Department participation helpful to the Scouts, it is also beneficial to the training of our armed forces.

Mr. President, I urge all of my Senate colleagues to vote for the young boys and girls who are following in the worthy Scouting tradition. A vote for this amendment is a vote for them.

Mr. DURBIN. Mr. President, as I noted earlier when the majority leader offered this amendment, I support the Boy Scouts, Girl Scouts, and other youth organizations. The Frist amendment seeks to ensure that government resources are not arbitrarily denied to youth organizations, while, at the same time, not limiting judicial review of the constitutionality of government actions.

I want to thank the distinguished majority leader for working with me to address my concerns regarding section 2, in which his amendment had provided a guaranteed funding level for youth organizations.

Together, we now have added flexibility to address cases where youth organizations no longer deserve the funding level they had previously received. For example, if a youth organization is convicted of a criminal offense or a senior officer of a youth organization is convicted of a criminal offense relating

to his or her official duties, under this modification, the head of a Federal agency would be able to waive the guaranteed funding level. Federal agencies also would have the ability to waive this funding level if the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds. It is my expectation that Federal agencies will use ths discretion wisely.

Our modification also clarifies that the support that a Federal agency is required to provide youth organizations is subject to the availability of appropriations, which Congress can revisit each year.

I also want to take this opportunity to reaffirm the importance of our Nation's strong tradition of religious liberty, our tolerance of the religious beliefs of all people, and our respect for those who do not believe in God or a higher authority. This amendment respects the significance of religious liberty by not limiting the jurisdiction of Federal courts in determining the constitutionality of government support for youth organizations.

Therefore, I support this amendment, as modified.

Mr. FRIST. Mr. President, yesterday, tens of thousands of Scouts began arriving at Fort A.P. Hill in Virginia to attend the National Scout Jamboree.

Held every 4 years at the Army base, the jamboree draws Scouts, leaders, and volunteers from around the world.

The Scouts will spend the next 10 days participating in outdoor activities like archery; fishing; and geocoaching, a GPS-based scavenger hunt.

One Scout told the Washington Post:

It's just a lot fun. There's so much to do here. You get to see so many people from all around and they have all sorts of activities.

For the local community, the jamboree has been a great financial boost. Just this year alone, the event has pumped $26 million into the community. The Scouts have spent $20 million on base improvements, including road paving and plumbing upgrades.

Unfortunately, this great summer Scouting tradition may come to an end. The reason? Because the Scouting oath includes an oath of duty to a higher power. Despite decades of public support for Scouting, one Federal judge has ruled that the Pentagon can no longer provide its facilities as a matter of church and state.

Because of this lawsuit by the ACLU, 40,000 Scouts are in danger of being denied permission to hold their jamboree at Fort A.P. Hill, or any other publicly supported venue.

That is why I am offering the Support Our Scouts Act of 2005. These young people need our help and our voices to protect a great tradition.

Since 1910, Scouting has taught and enriched millions of boys and girls, and drawn generations of Americans together.

Boy Scout membership has totaled more than 110 million young Americans—including myself, my three boys, and over 40 current Members of the Senate.

Today, more than 3.2 million youths and 1.2 million adults are members of the Boy Scouts and Scout organizations such as the Tiger Cubs and Cub Scouts.

These Americans are all dedicated to fulfilling the Boy Scouts' mission of instilling in our young people solid values such as honesty, integrity, patriotism, and character.

The Support Our Scouts Act of 2005 will help ensure that the Defense Department continues to support the Scouts, as it has lawfully done for years, including the summer National Scout Jamboree.

This amendment also ensures the Boy Scouts have equal access to public facilities, forums, and programs that are open to a variety of other youth or community organizations.

Boy Scouts, like other nonprofit youth organizations, depend on the ability to use public facilities and participate in these programs and forums. My amendment ensures the Scouts have fair and equal access to these facilities.

My amendment also makes clear that the Congress regards the Boy Scouts to be a youth organization and that the Boy Scouts—and the Girl Scouts—should be treated the same as other national youth organizations.

I hope that all of my colleagues will join the 50-plus cosponsors of this legislation and vote with me and other supporters of Scouting.

I want to thank Senator DURBIN for helping to refine the amendment's language. The Durbin modification will allow agencies to waive the ''mandatory floor of support'' included in my proposal—but not necessarily the support itself—if some senior officer of a youth organization or the organization itself is convicted of a serious criminal offense.

We would expect agency heads to use this waiver sparingly and judiciously, and only for the most serious of offenses that are connected to their official duties.

And once an organization has remedied the problem, we expect the baseline of support to be fully restored by the federal agency to its previous level.

The Scouts are committed to developing the best qualities in our Nation's young people—qualities such as patriotism, integrity, honesty, and compassion. This long-honored organization helps prepare our young people to be leaders in the communities, and leaders of the future.

A vote for the Support Our Scouts Act will let them know that Congress continues to support this worthy endeavor.

Mr. President, I urge all of my Senate colleagues to vote for the young boys and girls who are following in the great Scouting tradition. A vote for this amendment is a vote for them.

The PRESIDING OFFICER. Who seeks time in opposition?

Without objection, the Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we support this amendment, as modified. It has been modified to address a problem it had which did not relate to the Boy Scouts but which had to do with the wording which made it overly broad. The language clearly depends upon an appropriate agency making either a grant or an appropriation. We support the amendment. We thank Senator DURBIN, particularly, for his modification.

The PRESIDING OFFICER. Without objection, all time is yielded back.

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

Is there a sufficient second?

There appears to be a sufficient second.

All time having been yielded back, the question is on agreeing to amendment No. 1342, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—98

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

NOT VOTING—2

Craig	Rockefeller

The amendment (No. 1342), as modified, was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Under the previous order and pursuant to rule XXII, the clerk lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

Bill Frist, John Warner, Michael Enzi, John Cornyn, Jon Kyl, Richard Burr, Kit Bond, Lindsey Graham, John E. Sununu, Chuck Grassley, Mike DeWine, Lamar Alexander, James Talent, Pat Roberts, Johnny Isakson, Conrad Burns, Richard G. Lugar.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided for debate before the vote on cloture.

Who yields time?

The minority leader.

Mr. REID. Mr. President, I want to make sure the record is spread with the fact that we have offered everything. All we want is to finish this bill tomorrow at 11 o'clock at night. We even backed it off to 10:30. And the only amendments that would be in order would be those that are within the jurisdiction of the Armed Services Committee. We would have a Republican amendment, Democratic amendment, and we would go through the process by these two fine managers.

What is wrong? What picture am I missing? Why can't we go forward and do at least a little bit of work for the men and women in uniform of our country, namely 2½ million of them, plus taxpayers dollars, $450 billion for 1 year? Could not we at least spend 1 extra day on that?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, very briefly, both sides have talked about the importance of the Defense authorization bill. We both feel the importance of that bill. Cloture being invoked here shortly, which I believe it will, will allow us to have a Defense authorization bill in about 30 hours. So we will complete our objective of having a bill if cloture is invoked, and I encourage people to vote for cloture.

Mr. REID. Mr. President, I would just say briefly we would finish the bill at the same time if we entered into the agreement that I submitted to Senator WARNER and the Republicans. Time is of no difference.

Mr. KERRY. Mr. President, it is vital that we complete action on the National Defense Authorization Act. It is an important piece of legislation that we must pass with all due haste to meet the needs of the men and women of the U.S. military.

Defense bills are always serious matters—but this year Congress works against a background of prolonged combat in Iraq and Afghanistan, worrying indicators of a force under strain, and with obligations to care for a new generation of combat veterans and their families.

By virtually any measure, the American military is a force under strain. It is a simple statement of fact—and a fact every one of us must acknowledge and address so that this most magnificent military is not irreparably harmed. Just 2 months ago, General Richard Myers, Chairman of the Joint Chiefs of Staff, reported to Congress that the American military is not as ready as it could be to meet new contingencies beyond Iraq and Afghanistan. Units and personnel are facing repeated deployments to Iraq and Afghanistan. So-called ''low-density-high-demand'' units and personnel are maxed-out. The Army has a dwindling number of Army Reserve and National Guard personnel available to perform combat support roles such as military police and civil affairs.

In recent weeks, two reports—one by the GAO, the other by RAND—highlighted shortages in the Army Reserve. It is becoming increasingly difficult for the Army Reserve to continue to provide ready forces in the near term due to worsening personnel and equipment shortages. There are three primary causes for these shortages: the practice of not maintaining Army Reserve units with all of the personnel and equipment they need to deploy, personnel policies that limit the number of reservists and the length of time they may be deployed, and a shortage of full-time staff to develop and maintain unit readiness. As of March 2005, the number of Army Reserve eligible for mobilization under current policies had decreased to about 31,000 soldiers, or about 16 percent of Army Reserve personnel. But numbers don't tell the whole story as those still available for mobilization may not have the skills and ranks needed to support ongoing operations. We must all be concerned that the Army Reserve be able to provide forces that are ready and relevant to ongoing operations.

But these issues—as serious as they are—will not be addressed by simply rubber-stamping an important piece of legislation. I will vote against cloture because there are too many important amendments that would improve this legislation and help the men and women of the American military and their families. If we do invoke cloture, dozens of amendments that deserve a vote—up or down—would fall away, including amendments to protect the pay of mobilized reservists employed by the Federal Government and to create mandatory funding of veterans healthcare. My own amendments to extend survivor housing benefits beyond the end of the fiscal year, to increase funding for a vital weapons system sought by commanders in Iraq, and to begin the process of improving the GI Bill of Rights would never have received a vote.

I urge my colleagues to complete the defense authorization bill as quickly as possible and to consider the amendments which Members have offered.

Mr. FEINGOLD. Mr. President, I want to express my disappointment that the majority leader has decided to postpone further action on this year's Defense authorization bill. This is an extremely important piece of legislation that deserves the Senate's full and careful consideration right away. I have several worthy amendments to the bill, as do many of my colleagues from both sides of the aisle. We have an obligation to our men and women in uniform and to the American people to thoroughly debate these important amendments and come up with the best legislation possible for our Nation's security. If cloture is invoked on this bill prematurely, the Senate will not have been able to take up many of the essential amendments on which the Senate should be spending time, addressing such issues as pay and benefits for military personnel, nonproliferation, and our detention policies. I am therefore hopeful that the Senate will reject attempts to cut off debate on this bill prematurely. Unfortunately, rather than allowing debate and action on the Defense authorization bill to continue, the majority leader has decided to move to a special interest bill instead. I am hopeful, however, that the Senate will soon be able to go back to working on a bill that is so important to our national security.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on S. 1042, the Defense authorization bill for fiscal year 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who desires to vote?

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—50

Alexander	Coleman	Gregg
Allen	Conrad	Hagel
Bennett	Cornyn	Hatch
Bond	Crapo	Hutchison
Brownback	DeMint	Inhofe
Bunning	DeWine	Isakson
Burns	Dole	Kyl
Burr	Domenici	Lugar
Chafee	Ensign	Martinez
Chambliss	Enzi	McConnell
Coburn	Frist	Murkowski
Cochran	Grassley	Nelson (FL)

Nelson (NE)	Smith	Thomas
Roberts	Specter	Vitter
Santorum	Stevens	Voinovich
Sessions	Sununu	Warner
Shelby	Talent	

NAYS—48

Akaka	Durbin	Lincoln
Allard	Feingold	Lott
Baucus	Feinstein	McCain
Bayh	Graham	Mikulski
Biden	Harkin	Murray
Bingaman	Inouye	Obama
Boxer	Jeffords	Pryor
Byrd	Johnson	Reed
Cantwell	Kennedy	Reid
Carper	Kerry	Salazar
Clinton	Kohl	Sarbanes
Collins	Landrieu	Schumer
Corzine	Lautenberg	Snowe
Dayton	Leahy	Stabenow
Dodd	Levin	Thune
Dorgan	Lieberman	Wyden

NOT VOTING—2

Craig	Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Democratic leader.

Mr. REID. I have a parliamentary inquiry. I would be happy to yield to my friend from Virginia.

Mr. WARNER. I was just going to ask the Presiding Officer the regular order.

Mr. REID. That is what I was going to do. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. Now that the Senate has defeated cloture on the Defense bill, will the Senate remain on this bill, which is the bill that is to pay for our troops and protect our troops and our country, the Defense bill?

The PRESIDING OFFICER. The Senator would be informed that under the previous order—under the regular order, the Senate is to proceed to a motion to invoke cloture on the motion to proceed to S. 397.

Mr. REID. Mr. President, then I have a unanimous consent request. That request is that the cloture vote on the motion to proceed to the gun liability bill be vitiated and that the Senate remain on the Defense bill and complete the Defense bill this week and the Senate begin the very minute it gets back on September 6 with the gun liability bill, on cloture on the motion to proceed.

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Mr. FRIST. Mr. President, reserving the right to object, I made it clear about 3 weeks ago to this body that we had a number of issues we were going to address before leaving for recess. We listed a number of them this morning. One of them was the gun liability bill. There are lots of roadblocks right now, barriers being thrown up to prevent us from addressing a very important bill that I believe we will show here shortly we have over 60 votes for. Thus, I will say one more time that we intend to complete the gun liability bill before we leave, complete addressing it. I am very disappointed in the last vote, the fact that we are not going to be proceeding with the Department of Defense authorization bill. I do look forward to coming back and looking at that bill and passing that bill. It is a very important bill, and that is why we filed cloture to complete that. In all likelihood, what will happen, we will proceed to the bill on gun liability, and the objective will be to complete that this week, and thus I do object.

Mr. REID. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. When we finish the gun legislation, do we automatically come back to the Defense bill?

The PRESIDING OFFICER. The Senator should know that if the motion to proceed is passed, it displaces the Defense authorization bill.

Mr. REID. But that does not respond to my question. It is put back on the calendar, is that right?

The PRESIDING OFFICER. If the Senate proceeds to the gun liability bill motion, then it would displace the DOD bill and place it back on the calendar.

Mr. FRIST addressed the chair.

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I would ask unanimous consent that at any time determined by the majority leader, the Senate resume the Department of Defense bill at that time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. Will the Senator restate it.

Mr. FRIST. I ask unanimous consent that at the time determined by the majority leader, we will return to the Department of Defense authorization bill.

Mr. KENNEDY. Reserving the right to object.

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank you. The majority leader said something here today that really surprised me. He said he is going to prove that the gun liability bill was one of the most important things we were going to do, and I want to know from the majority leader, does he think that bill is more important than the Defense authorization bill?

Mr. SANTORUM. Regular order.

Mrs. BOXER. Does he think that the Defense authorization bill is not as important as gun liability?

Mr. BUNNING. Regular order, Mr. President.

The PRESIDING OFFICER. The majority leader has the floor.

Is there objection to the unanimous consent request?

Mr. REID. Mr. President, I would suggest and ask if the distinguished leader would modify his request to say that when we finish the gun legislation, we would return to the Defense bill.

The PRESIDING OFFICER. Does the majority leader——

Mr. FRIST. I object and I once again state my request that at a time determined by the majority leader, we return to the Department of Defense authorization bill.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. KENNEDY. Reserving the right to object, Mr. President, if we go to cloture and cloture is invoked, do we not displace the Defense authorization bill for consideration in this Chamber this afternoon and for the next days, if we pass it? Is that not the case?

The PRESIDING OFFICER. If cloture is invoked on the motion to proceed, we will remain on the motion to proceed until time is used or yielded back.

Mr. KENNEDY. So the answer is affirmative, that we are displacing the Defense authorization bill by voting on cloture on the motion to proceed. Am I not correct?

The PRESIDING OFFICER. If the motion were to pass, the Senate would continue on that motion.

Mr. REID. Mr. President, I hope the distinguished majority leader will bring this bill back at the earliest possible time. This is such an important piece of legislation. It should not be added to the tail end of things we do around here.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The objection is heard.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 15, S. 397: A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Bill Frist, George Allen, Larry E. Craig, Craig Thomas, Michael B. Enzi, Jeff Sessions, Christopher Bond, Lamar Alexander, Mitch McConnell, Sam Brownback, Tom Coburn, Richard Burr, John McCain, Richard Shelby, Saxby Chambliss, John Ensign, Chuck Hagel.

The PRESIDING OFFICER. Under the previous order, 2 minutes are equally divided on each side.

Who yields time?

Mr. FRIST. We yield back our time.

Mr. SCHUMER. Mr. President, I urge my colleagues to vote no on the motion

for cloture. Whatever Members feel about gun liability, and there are many divided opinions here, nothing could be more important than returning to the DOD bill, supporting our troops, supporting our veterans. It is a $440 billion bill. The fact that we cannot debate it for more than a few hours says something is wrong with this Senate. We can do both. We should not leave the DOD bill until we finish. I urge a ''no'' vote on cloture, whatever your view is on the gun liability provision.

Mr. KYL. Parliamentary inquiry, Mr. President: Under the rules of the Senate, would it not be possible to debate the Defense authorization bill for 30 hours if we had voted for cloture or if we do vote for cloture?

The PRESIDING OFFICER. There would have been up to 30 hours if approved.

Mr. KYL. So we would have the opportunity if we were to invoke cloture to debate the Defense authorization bill for 30 hours.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Parliamentary inquiry: Is it not also true in a postcloture environment, had cloture been invoked, many of the amendments dealing with veteran benefits and other issues would have been denied consideration?

The PRESIDING OFFICER. It would be difficult for the Chair to determine that at this point.

Mr. FRIST. Regular order.

The PRESIDING OFFICER. Regular order.

Mr. LEVIN. Parliamentary inquiry: Following up on that, is it not true that even though amendments are relevant in a postcloture situation, if they are not technically germane, they fall?

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. Mr. President, parliamentary inquiry.

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

The question is, Is it the sense of the Senate that debate on the Motion to Proceed to S. 397, Protection of Lawful Commerce in Arms Act, be brought to a close?

The yeas and nays are mandatory under the rule.

The Senator will state the inquiry.

Ms. LANDRIEU. Mr. President, parliamentary inquiry: Would the Thune amendment that was pending on a review of the BRAC closings that are going on around the country would have been germane after cloture on the Defense bill?

The PRESIDING OFFICER. The Chair would inform the Senator that there are several Thune amendments that relate to BRAC.

Ms. LANDRIEU. I will ask specifically by number if the clerk will give me the Thune amendment on the postponement of BRAC. We had several, but there was one on postponement.

I suggest the absence of a quorum.

Mr. FRIST. Regular order.

The PRESIDING OFFICER. The Senator does not have the floor.

Mr. FRIST. Regular order.

The PRESIDING OFFICER. Regular order has been called for.

Mr. DURBIN. Parliamentary inquiry.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The yeas and nays resulted—yeas 66, nays 32, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—66

Alexander	Domenici	McConnell
Allard	Dorgan	Murkowski
Allen	Ensign	Nelson (FL)
Baucus	Enzi	Nelson (NE)
Bennett	Frist	Pryor
Bond	Graham	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Salazar
Burns	Hagel	Santorum
Burr	Hatch	Sessions
Byrd	Hutchison	Shelby
Chafee	Inhofe	Smith
Chambliss	Isakson	Snowe
Coburn	Johnson	Specter
Cochran	Kohl	Stevens
Coleman	Kyl	Sununu
Collins	Landrieu	Talent
Conrad	Lincoln	Thomas
Cornyn	Lott	Thune
Crapo	Lugar	Vitter
DeMint	Martinez	Voinovich
Dole	McCain	Warner

NAYS—32

Akaka	Dodd	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Obama
Cantwell	Inouye	Reed
Carper	Jeffords	Sarbanes
Clinton	Kennedy	Schumer
Corzine	Kerry	Stabenow
Dayton	Lautenberg	Wyden
DeWine	Leahy	

NOT VOTING—2

Craig	Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 66, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

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

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

Mr. SESSIONS. Mr. President, we are now proceeding to S. 397, after a very strong cloture vote with 66 Senators voting to move forward on this legislation. It is something we have had taken up quite a number of times. It has broad support in terms of business groups, gun owners, law enforcement, labor unions, and sportsmen. There is nothing in it that is harmful or damaging to our legal system. There is nothing in it that provides any special interest protection to gun manufacturers. But it is a legitimate response to a growing concern that our legal system is being abused in such a way that could actually take legitimate businesses and put them out of business.

I think it is something that is of great concern to us, and this Senate has a majority that is ready to move forward with it. In the great spirit of our Senate, we will have a lot of debate. There are those who don't approve. I know Senator REED of Rhode Island is a strong opponent of this legislation and he will certainly have a great opportunity to express his concerns on it. That is part of what we do. I note, however, this is not the first time the words will have been spoken on this issue. This bill has been up for some years now and has come close to becoming law on several occasions, but has not yet done so.

It is important that we note that this legislation has the potential to impact our economy adversely. We need to look at how these proposed novel legal theories adversely affect our economy. Someone will be making firearms in the world. People are not going to stop buying firearms. They have a constitutional right to do so. It would be the height of stupidity if we were to create laws and a legal system that put our firearm manufacturers out of business so that we have to buy imported firearms. That would not make good sense.

Our ultimate obligation is to the public. This body should take no steps that would provide improper immunity for defective practices or defective firearms that could be sold. That absolutely must not be done. With that said, it is essential that we refrain from developing a legal system, however, where lawyers are able to create causes of action and steer public policy through litigation—a public policy they have not been able to win at the ballot box, and not been able to win through their State legislatures and the Congress. So since they have not been able to win in the legislative branches, what we have had is a group of activist anti-gun people trying to accomplish the same goal through litigation.

We also need to remember in all we do regarding litigation that personal responsibility is an important American characteristic. Individual responsibility must not be stripped from all our expectations, where plaintiffs are suing third parties on an almost strict liability theory. Many trial lawyers are attempting to invent new causes of action, with hopes of striking a litigation oil well. As a result, industries such as arms manufacturing and the food industry are facing enormous insecurities. These industries have great reason to be insecure. Everyone knows

how detrimental runaway verdicts can be and one major verdict can bankrupt an industry. Huge costs arise from simply defending an unjust lawsuit. Indeed, such lawsuits, even if lacking any merit and ultimately unsuccessful, can deplete an industry's resources and depress stock prices.

Defendant industries must hire expensive attorneys and have their employees spending countless hours responding to the lawyers, providing them information and so forth, and meeting with them. Industries, in addition, must purchase liability insurance which takes away from funds necessary for expanding their new jobs, safety, research and development that they might otherwise be able to spend it on, which is important. No other nation must compete in the world marketplace carrying such a huge litigation cost as American businesses do and particularly gun manufacturers. Eventually, these costs are passed on to the consumer. Product prices increase and availability of the products becomes scarce.

In 1998, individuals and municipalities began filing dozens of novel lawsuits against members of the firearms industry. These suits are intended to drive the gun industry out of business by holding manufacturers and dealers liable for the intentional and criminal acts of third parties over whom they have absolutely no control. The firearms industry is particularly vulnerable to lawsuits.

In his testimony before a House subcommittee in 2003, the general counsel of the National Shooting Sports Federation stated:

> Industry-wide cost of defense to date [against these lawsuits] now exceed $100 million. This is a huge sum of money for a small industry like ours. The firearms industry taken together would not equal a Fortune 500 company. The National Shooting Sports Foundation now believes litigation expenses have exceeded $150 million, Mr. President.

The danger that these lawsuits can destroy the gun industry is especially ominous because our national security and liberties are at stake. First, the gun industry manufactures firearms for American military forces and law enforcement agencies. Unlike many foreign countries, the United States doesn't have a government armory, but relies on private industry to make our firearms. Due in part to Federal purchasing rules, these guns are made in the United States by American workers. Successful lawsuits can leave the U.S. at the mercy of foreign small arms suppliers.

Second, by restricting the industry's ability to make and sell guns and ammunition, the lawsuits threaten the ability of Americans to exercise their second amendment rights. I can imagine the impact the ruin of the gun manufacturing industry would have on my home State of Alabama, which is one of the premier States in the Nation for hunting whitetail deer and eastern wild turkey. Hunting is a part of the way of life for nearly 500,000 Alabamans. That is about 1 in 9 of our citizens. Imagine if they were unable to obtain hunting rifles or ammunition. What would happen to the hunting industry, which brings close to $45 million a year in revenues into the State and provides nearly 16,000 jobs?

Additionally, if the arms industry must continue to hash out massive legal fees or eventually goes under, thousands of workers will lose their jobs. Manufacturers are already laying off workers to pay the legal bills. Secondary suppliers to gun makers have also suffered. This is why it is not surprising that the labor unions representing workers at major firearms plants, such as the International Association of Machinists and Aerospace Workers of East Alton, IL, support this bill. This union's business representatives stated the jobs of their 2,850 union members ''would disappear if the trial lawyers and opportunistic politicians get their way.''

Insurance rates for firearms manufacturers have skyrocketed since these suits began. I am going to talk about these suits and why they are fundamentally wrong in a minute. These suits have caused the insurance to go up and some manufacturers are being denied insurance and seeing their policies cancelled, leaving them unprotected and vulnerable to bankruptcy.

Thirty-three State legislatures have acted to block similar lawsuits, either by limiting the power of localities to file suit or by amending State product liability laws. However, one lawsuit in one State could bankrupt the industry, making all of those State laws inconsequential. That is why it is essential that we pass this law.

The lawsuits we are talking about—the kind of lawsuits we will be discussing today are the kind of lawsuits that do not have merit. They are not the kind of lawsuits that ought to be brought. Many of them eventually get dismissed by judges. Most of them do eventually. But the costs are huge and, who knows, some day an activist court may start allowing these lawsuits to be successful.

The anti-gun activists, at their base philosophy, want to blame violent acts of third parties—that is violent, illegal acts by criminals—on manufacturers of guns, because they manufactured the gun, and they want to be able to sue the seller who sold the gun simply for selling them. This doesn't make sense. Should a car dealer be sued if someone intentionally runs down a pedestrian because the car dealer sold the car that was used by a third party to commit a crime, a homicide? What about the car manufacturer? What an absurd thought. But that is the equivalent of what these plaintiffs are arguing to recover from gun manufacturers and sellers.

Guns can be dangerous in the wrong hands, but so can cars. Why would the manufacturer or seller of a gun who is not negligent, who obeys all of the applicable laws—we have a host of them—be held accountable for the unforeseeable action of some criminal third party? They should not, and this bill would simply prohibit that.

If you buy a gun and someone comes into your house and attempts to attack you or your family and you pull out that gun and attempt to use it and it fails to work because it was defective, and that criminal harms you or your family, you should be able to sue the gun manufacturer for a defective product. But if it fires as it is supposed to, as it was designed to, it operates like whatever widget is made in this manufacturing world we are in, and it does what it is supposed to do and it is a lawful product, you should not be able to be sued.

I don't understand how these lawsuits are being maintained. But we have major cities in this country that have taken it as a policy to sue the manufacturers for creating a product that works precisely as it is supposed to work, that is designed according to the laws of the United States, and it is sold according to the laws of the United States, and they still want to sue them for an intervening criminal act. That is contrary to our classical law of lawsuits and plaintiff lawsuits. It is something that I sense is being eroded, these classical principles of litigation today. I think that is one reason we are beginning to have movements to have court reform, lawsuit reform, around the country because courts have allowed things to go beyond what traditionally they were ever allowed to do.

So it sort of makes these gun manufacturers a guarantor, a person who would pay for all damages that might occur for a gun they manufactured. That cannot be the law and must not be the law. These plaintiffs are demanding colossal monetary damages and a broad range of injunctive relief; that is, orders from the court concerning this. These injunctions would relate to the design, manufacture, distribution, marketing, and the sale of firearms. We already have laws that cover all of that.

By the way, we have had laws about all of that. We have debated other laws the Congress and State legislatures have chosen not to pass. So the attempt, in a very real sense, is to put pressure on these companies to do things the elected representatives have decided they should not do or should not be required to do.

Some of the demands that are being made are the kinds of demands that legislatures, not courts, should be deciding: one-gun-a-month purchase restrictions not required by the State law, requiring manufacturers and distributors ''to participate in a court-ordered study of demand for firearms and to cease sales in excess of lawful demand,'' prohibition on sales to dealers who are not stocking dealers with at least $250,000 in inventory, a permanent injunction requiring the addition of a

safety feature for handguns that will prevent their discharge by ''those who steal handguns.''

That will be a pretty ingenious device, if you can make it work. It is going to be on every gun that is sold? It may be within the power of this Congress to vote such a restriction if it can be done. It seems like somewhere in my memory we voted on something such as that.

But to have a judge who is supposed to be a neutral arbiter in a lawsuit start entering injunctions to require these kinds of things is beyond legitimate principles of law.

One of the most amusing demands was a prohibition on the sale of guns near Chicago ''that by their design are unreasonably attractive to criminals.'' Guns could not be sold near Chicago that are ''by their design unreasonably attractive to criminals.''

What would that mean? What kind of responsibility does a manufacturer have? Should each court make that determination? Is that what they were elected to do? Is that the role of the court? No. It is a legislative requirement.

These lawsuits are part of an antigun activist effort to make an end run around the legislative system. That is the fact. Because their efforts to pass restrictive legislation have only partially succeeded, they want to do more. So they are taking their cause to the judicial system hoping they will land in court before an activist judge who will somehow allow their view of how guns should be sold and manufactured to become a part of a judge's order. Just impose it. One judge who may not be elected—if it is a Federal judge, he has a lifetime appointment—just impose this by a court order. That is why people are concerned. So far they have not been successful in winning these cases.

The Ohio Court of Appeals held that allowing this type of liability would—they were correct about this—''open up a Pandora's box. For example, the city could sue manufacturers of matches for arson, or automobile manufacturers for traffic accidents, or breweries for drunk driving.''

That is the same principle. I believe that judge in Ohio was correct. In the city of Bridgeport v. Smith & Wesson Corporation, Judge Robert McWeeny aptly stated that ''plaintiffs must have envisioned such settlements as the dawning of a new age of litigation during which the gun industry, liquor industry and purveyors of junk food would follow the tobacco industry.'' It is clearly an attempt to build on and expand those kinds of theories of tobacco lawsuits to go even further than what we are dealing with here.

The Florida Supreme Court summed up the issue nicely when it refused to hear a plaintiff's appeal against the firearms industry in a lawsuit.

The plaintiff did not prevail in an appeal to the higher court in Florida, and the court held this:

> The power to legislate belongs not to the judicial branch of Government, but to the legislative branch.

Hallelujah, Judge. I am glad you get it. Judges ought to be neutral umpires, not activists. They should not be setting public policy. They should not allow their courts to be used as a tool to further a political agenda, an agenda that has been rejected in the State legislature or Congress.

However, all it will take is one activist judge or activist court to destroy an entire industry in reality. So that is why the legislation is important.

Let me mention what this bill does and does not do. The bill is incredibly narrow. It only forbids lawsuits brought against lawful manufacturers and sellers of firearms or ammunition if the suits are based on criminal or unlawful misuse of the product by a third party.

I know it is hard to believe, but that is the theory of these lawsuits. That theory is you sold a gun lawfully, OK. You followed the complex Federal regulations that have a huge host of requirements. You followed the State legislature's requirements, often very complex, also, to the T, and it comes in the hand of a criminal, and they use it for a crime. Now the manufacturer and the seller are liable. What kind of law is that? We do not need that. These lawsuits are happening, and so all this would say is that those kinds of lawsuits cannot be brought.

Manufacturers and sellers are still responsible for their own negligent or criminal conduct and must operate entirely within the complex State and Federal laws. Therefore, plaintiffs are not prevented from having a day in court. Plaintiffs can go to court if the gun dealers do not follow the law, if they negligently sell the gun, if they produce a product that is improper or they sell to someone they know should not be sold to or did not follow steps to determine whether the individual was properly subject to buying a gun.

The plaintiff can still argue that actions such as negligent entrustment, breach of contract, or warranty, or normal product liability involving actual industries caused by an improperly functioning firearm can be legitimately brought as a lawsuit and should be able to be brought. Furthermore, any allegation that the bill burdens law enforcement is completely false. Gun manufacturers and sellers are already heavily regulated by hundreds of pages of statutes and regulations. The Government requires that all gun manufacturers, importers, and dealers receive licenses. They have to have those licenses. And they must keep all their records by serial number, and each gun has to have a distinct, separate serial number recorded before entering or leaving their inventory. That is, if they are manufactured in Massachusetts or someplace and they are shipped to Alabama, they ship it by each one's serial number and it is recorded. If it is received by a distribution center in Alabama, it is recorded there, and if it is moved off to a gun store or a Wal-Mart where they sell guns, it is entered there. When it is sold, it is entered. That serial number is recorded against the name of the person who bought it. That person who bought it must produce identification, must sign a sworn statement that they have not been convicted of a crime, that they are not under the influence of drugs, and a number of other things. They sign it. It is a Federal offense if they lie about it. And they do a background check.

So there are a lot of regulations set forth. The records have to be open for inspection by the Bureau of Alcohol, Tobacco and Firearms without a warrant and at any time. They don't have a warrant. They can go into these licensed dealers any time, any day, and examine their records. That is the burden we put on gun dealers.

They can also do annual inspections without a specific investigation or obtain a warrant as any other law enforcement agency can.

Mr. President, I think I overstated it. The ATF can without a warrant any time do an inspection if it is related to an investigation of a gun that has been traced there, and they have an opportunity to do annual inspections at any time through the year as part of their enforcement dealings, and they do that. That guns are not heavily regulated is a complete myth. Gun dealers are carefully managed.

As a former U.S. attorney, I participated in the prosecution of a gun dealer for bad recordkeeping. He was most offended. Over a number of years we have created even more regulation. He really felt put upon, but he wasn't filling out the forms. He wasn't making people sign. He was telling people not to put down that they lived out of State because that affected whether the gun could be sold. He would tell them, don't fill that out, and things of that nature. He was not complying, and we prosecuted him. He went to jail and lost his ability to sell guns.

Licensed dealers have to conduct a Federal criminal background check on their retail sales either directly through the FBI, through its National Instant Criminal Background Check, NICS, or through State systems that also use NICS. All retail gun buyers are screened to the best of the Government's ability.

Additionally, the industry has voluntary programs to promote safe gun storage and to help dealers avoid selling to potential illegal traffickers in guns. Manufacturers also have a time-honored tradition of acting responsibly to issue recalls and make repairs if they become aware of defects. Law-abiding manufacturers and dealers of firearms are not threats to our society. They have not committed crimes by supplying our citizens with lawfully acquired firearms. It is essential that the people who are guilty, people who commit the crime, who deserve punishment, receive the punishment. More

importantly, this legislation is needed so that people who have suffered a real injury from a real cause of action can be heard and taken seriously while those who are trying to improperly spread the blame will not.

Mr. President, it is the responsibility of Congress to review our civil litigation system, our court system, and see how it is working. If over a period of years tactics and techniques are developed that exploit weaknesses or loopholes or gaps in that system or allow the system to be abused, then I think everybody would recognize that we ought to take action to fix it. Every day, attorneys file lawsuits under laws that we pass and the court's interpretation of those laws. Congress has every right to monitor this, and we have a duty once we determine a type of litigation is so legally unsound and detrimental to lawful commerce that it should be constrained to enact meaningful legislation to constrain it and to stop abuse.

In the past, Congress has found it necessary to protect the light aircraft industry, community health centers, aviation industry, medical implant makers, Amtrak, computer industry members affected by Y2K problems, and good Samaritans.

Senator MCCONNELL offered a bill to protect a person who tried to save another person, who was the victim of an accident, from dying. He believed that a person trying to do the best they can to protect someone else should not be sued, if they are somehow found to be faulty in a good Samaritan act.

Congress may enact litigation reforms when lawsuits are affecting interstate commerce, and many of these lawsuits are trying to use State courts to restrict the conduct of the firearms nationally. They are trying to create legal holdings by the courts that would impact the entire industry nationally. In fact, it is the stated purpose of many of these groups. And a single verdict, even a single verdict, large verdict of an anti-gun plaintiff, could bankrupt or in effect regulate an entire segment of our economy and of America's national defense and put it out of business.

I do not know when there has been a better example of when this type of legislation is needed. We must pass this bill. It is long overdue. It has 60 cosponsors. It is time for us to move forward and get it done.

It is simply wrong when we as a Congress have approved the sale of firearms in America and, through the Constitution, allowed the manufacture and sale of firearms, to allow those manufacturers who comply with the many rules we have set forth—they comply with those rules, to be sued for intervening criminal acts. They sell a gun and it ends up in the hands of a criminal, unbeknownst to them. If they knew, if they had reason to know, if they were negligent in going through the requirements of the law or failed to do the requirements of the law, they can be sued. But if they do it right and it goes into the hands of someone who uses it for a criminal purpose, the manufacturer of that gun absolutely should not be subject to a lawsuit. It is a political thing that is going on out there, the filing of these lawsuits all over the country in an attempt to crush an industry that this Congress and our Constitution have stated to be a legitimate industry.

I know Senator REED has many wise comments on this, able Senator that he is. We will disagree, but I certainly respect his views.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Rhode Island.

Mr. REED. Mr. President, I rise in strong opposition to S. 397, the so-called Protection of Lawful Commerce in Arms Act. Like its predecessor which the Senate soundly rejected last year, this bill is one of the most blatant special interest giveaways that I have seen during my time in the Senate. At a time when more than 7.5 million Americans are unemployed and our Nation faces a deficit of $333 billion, war in Iraq and Afghanistan, inadequate homeland security funding, and now a Supreme Court vacancy, to me the Republican leadership choosing to devote our precious time to a bill that would deny victims of gun violence their day in court and protect the gun industry is a travesty.

The gun lobby argues that this legislation would put an end to frivolous lawsuits that claim gun companies should be liable simply because their guns are used in crimes. In fact, the bill would bar virtually all negligence and product liability cases in State and Federal courts while throwing out pending cases as well as preventing future cases. The bill would provide this sweeping immunity to gun dealers, gun manufacturers, and even trade associations. Interestingly, the NRA modified the bill so that this year they don't appear to be granting themselves legal immunity as they did the last time around.

The track record for this bill in the last two Congresses has, thankfully, been one of failure. We can only assume that the gun lobby is hoping that the third time will be the charm. The gun lobby and its allies in Congress had to abandon their effort to pass similar legislation in the 107th Congress, after the Washington area sniper attacks terrorized an entire region. Then last year, in one of the more bizarre twists in recent Senate history, the National Rifle Association instructed the Republican leadership to kill the bill after a majority of Senators voted to add reasonable gun safety measures—to require background checks at gun shows, renew the assault weapons ban, and require child safety locks to be sold with handguns.

It is a good thing that the Senate defeated this bill because it would have thrown out the civil lawsuits filed by the families of the victims of the sniper attacks, even though the Washington State gun dealer who had the Bushmaster sniper rifle in his inventory could not account for that weapon or more than 230 others. Instead, the families of the victims won a $2.5 million settlement from Bull's Eye Shooter Supply and Bushmaster, the assault weapons maker who negligently supplied Bull's Eye despite its abysmal record of missing guns and regulatory violations.

At the heart here is not activist courts making law. The heart of this is people who have been harmed by weapons, innocent people, people such as the victims of the Washington sniper—someone walking to their car from the Home Depot and being shot and killed; a bus driver waiting to take his rounds in the morning, having a cup of coffee, reading the paper, with a wife and children at home, shot by snipers. Where did they get those weapons? They got them through the negligence of a licensed gun dealer. This legislation would effectively prevent those families from recovering damages, compensation for the loss of a husband and father, the loss of a wife. This is not about activist judges making law. This is about shutting the doors to the courts of America, mostly State courts, to prevent those who have been harmed by the negligence of others to be made whole. That is what this is about. That is why it is so wrong.

With respect to the sort of activism of public policymaking, we all recognize in this body that Federal law is one aspect, but State law is also important. In fact, most tort law is based upon State law. State assemblies make up State laws. They decide causes of action. They decide defenses. They do a lot of those things in conjunction with litigation in their courts. This legislation preempts all 50 States. This says to the State of Georgia, the State of Alabama, the State of Rhode Island, the State of Michigan, you can't have the ability of your citizens to go to court. Even if you believe it is appropriate and right in your State courts, we are preempting you. That is also wrong.

In addition to the monetary settlement for the victims of the families that were the victims of the snipers, in the settlement, Bushmaster agreed to inform its dealers of safer sales practices that should prevent other criminals from obtaining guns, something Bushmaster had never done before. What you have is a situation of negligence, and this negligence can extend not only from the dealer but to the manufacturer. This legislation not only would deny the right of a victim to come forward and ask for compensation, but also to reform the system.

We have to recognize, too, that there are elaborate rules for the governance of weapons and firearms and tobacco, an agency of the Federal Government. But this is one industry that is virtually not subject to any product liability, any consumer product safety

rules, any other type of regulation. This legislation would undercut ways in which a court could do justice. Because the Senate rejected this legislation last year, these victims and their families had their day in court, and at least one manufacturer's commercial practices were improved in ways that benefit all Americans. What could be more helpful to all of us if a manufacturer takes the time and the effort, appropriately, to inform his dealers about appropriate practices in selling weapons, about avoiding selling weapons to those people who might be trafficking in weapons, avoiding selling weapons to those people who might be irresponsible and reckless in the use of those weapons? That can only benefit all of us.

But despite all of these things, we find ourselves again in a familiar situation, one in which the NRA's pet project is again being granted a virtually direct, nonstop ticket to the Senate floor. The Senate Judiciary Committee has held no hearings on this legislation, and no committee markups were ever scheduled. The bill's supporters knew it would be difficult to withstand the kind of scrutiny that might result in careful, deliberate, and thorough committee hearings, so they brought it straight to the Senate floor. Here we are today. Now it is up to us make sure that there is a full and vigorous debate, including not only amendments to deal directly with aspects of this legislation but also to address other issues with respect to violence in America and gun safety.

If we are going to grant blanket legal immunity to the firearms industry, it is imperative that we address inadequacies in other areas with respect to gun safety legislation. Mothers and fathers across America go out of their way every day to protect themselves and their children from harm. How unsettling it must be for these families to think that the gun industry, which is already exempt from Federal product safety regulations that apply to children's toys, pharmaceuticals, and virtually every other product in this country, may now receive legal protection that no other industry enjoys.

I listened closely to the Senator from Alabama talking about this as if a car manufacturer was being held responsible for the actions of others. Well, they could be in certain situations. If a car dealer leaves his cars unlocked with keys in the ignition at night and someone comes and takes that car, drives it away, causes damage, certainly the issue arises, was that car dealer using good common sense? Certainly, that would be a case that would at least get to the notion of filing the case.

This bill would prevent such a similar case from the gun manufacturers and the gun dealers, but there is no attempt, at least today, to limit those types of liability to other manufacturers. I believe that shows how narrow this is and how it is focused to a very special interest. That is unfortunate.

As with any other business, there are good actors and bad actors with respect to the gun industry. There are those who carefully follow the law and those who ignore it. But granting unprecedented legal immunity to the entire industry without requiring any additional responsibilities to protect the public from reckless behavior would be a grave mistake. It will only encourage those who already engage in questionable conduct.

I urge my colleagues, as we work through this debate, to listen closely and to try to recognize that we are taking unprecedented action with respect to undermining the traditional system of common justice. First, we are usurping authority for State law that is traditionally the purview of State assemblies and legislatures. Then we are granting an unprecedented immunity to one very particular industry. That might be a precedent, unfortunately, for other industries that come forward, which would be a severe unraveling of the protections we all have.

All of this, again, begins not with someone going out to stage a lawsuit by being shot. That is the last thing that happens. The victims of this gun violence, who are the subject of these suits, didn't want to be victims. They didn't want to be in court. The bus driver waiting there to start his run was not thinking, Oh, boy, someone is going to shoot me so we can start a case and change public policy. He was shot by a sniper who obtained a gun through the negligence of others. Yet that family would have been denied their relief in court if this bill had passed last year.

There was discussion about personal responsibility. There is personal responsibility. It is important. It is fundamental to everything we do. What about the responsibility of the gun dealer to know how many weapons he has on hand, where they are, not to leave it out so it can be taken? Apparently the youngest sniper, who was barely of age, just picked it up off a counter and walked out of the store with it, a rifle that was used later to shoot and kill several people. Where is that personal responsibility? And if you are the victim of that lack of responsibility, how can you have your day in court if this legislation passes?

Now, we have a lot of work to do in this Congress. We should get on with it. That is why it is amazing that we have left the Defense bill that would provide the resources to protect our soldiers, sailors, marines, airmen and airwomen across the globe to move to this very narrow, special interest bill. I think it is extremely unfortunate.

A part of the rationale for this bill advanced by the proponents is that there is a crisis. There is a crisis with respect to the industry. They are about to lose their ability to manufacture. They are going to go bankrupt. We won't have any weapons for our national security. That is not substantiated by any of the facts before us.

The gun lobby says it needs protection because it is faced with a litigation crisis. The facts tell precisely the opposite story. There is no crisis. There is a crisis in Iraq. There is a crisis in Afghanistan. There is a crisis across the globe with international terrorists. That is a crisis. But it is not a crisis with respect to gun liability in this country. Yet we move from legislation dealing with these huge crises, some of which have existential consequences to us, particularly if terrorists ever get their hands on any type of nuclear material, to a situation where there is no crisis.

Mr. LIEBERMAN. Will the Senator from Rhode Island yield?

Mr. REED. I am happy to yield to the Senator from Connecticut.

Mr. LIEBERMAN. I would like to yield the hour allotted to me to the floor manager, the Senator from Rhode Island.

Mr. REED. I thank the Senator from Connecticut.

The only two publicly held gun companies that have filed recent statements at the Securities and Exchange Commission contradict the claim that they are threatened by lawsuits. Smith & Wesson filed a statement with the SEC on June 29, 2005, stating that:

> We expect net product sales in fiscal 2005 to be approximately $124 million, a 5% increase over the $117.9 million reported for fiscal 2004. Firearms sales for fiscal 2005 are expected to increase by approximately 11% over fiscal 2004 levels.

That is their SEC report which they have to file subject to severe penalties for misstatement and mistruth. I believe that. It appears to be a banner year for Smith & Wesson. There is no crisis.

They go on and say in another filing on March 10, 2005:

> In the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of amounts received from insurance carriers, relative to product liability and municipal litigation.

What they said is—this company, with a banner year of increased sales, with projections for better sales—they incurred $4,535 in out-of-pocket costs to defend product liability and municipal litigation claims and suits. That is a crisis? Sales are up. Litigation costs in this particular area—out-of-pocket costs, to be accurate, of $4,500. That is what they are telling the Federal regulators, under severe penalties for misstatements and even inaccurate statements. There is no crisis.

In that same period for which they incurred $4,535 in out-of-pocket costs, Smith & Wesson spent over $4.1 million in advertising. Maybe the real crisis is they have to spend a lot on advertising. But that is not a crisis situation. That is not sufficient to bring the Senate here to debate a bill to give them protections from these types of suits.

Meanwhile, gun manufacturer Sturm, Ruger told the SEC in a March 11, 2005 filing:

> It is not probable and is unlikely that litigation, including punitive damage claims,

will have a material adverse effect on the financial position of the Company.

Essentially, what these two publicly reporting companies have said, despite all of the discussion by others that they are on the verge of bankruptcy, is: There is no material adverse effect on our financials based on this type of litigation. There is no crisis.

So at the same time the gun makers are reporting to the SEC that litigation costs are not likely to have a material adverse effect on the businesses, their trade associations have been rapidly inflating the unsubstantiated estimates of litigation costs. Gun lobby claims of alleged litigation costs have risen in $25 million increments, with no data of any kind to support these claims because most of these companies in the industry are privately held. But I would suggest if the publicly held companies are offering their truthful admissions to the SEC—unless the privately held companies are woefully unmanaged or are unusually involved in this type of litigation—then these estimates have to be widely suspect.

Here are the claims of increased costs: April of 2003, estimated litigation has cost the industry $100 million in the last 5 years; July of 2004, estimated litigation costs of $150 million; November of 2004, estimated litigation costs of $175 million; February of 2005, some estimates talk about $200 million.

Now, it does not seem to track when you have major companies saying they have no material impact, paying out of pocket $4,500, and then you have these wildly inflated estimates.

Number of lawsuits faced by the gun industry is, if anything, far less than many other industries. From 1993 to 2003, 57 suits were filed against gun industry defendants, out of an estimated 10 million tort suits, according to the State Court Journal published by the National Center for State Courts—57 out of 10 million. That is not a record of litigants out of control.

The actual monetary awards faced by the gun lobby are even less. The gun lobby's record in court is far worse than the tobacco industry's, which for decades won every case brought against it. But the gun lobby has not lost them all either. In fact, many of the cases my colleague from Alabama was citing were some appeals court cases that were turning down plaintiffs who were unsuccessful at the trial court level. The results of these cases are what one would expect as suits against any industry: Some cases are dismissed, some cases are won by plaintiffs, some are on appeal, others are the result of a settlement between the parties.

Now, the fact is, most of the legal defense costs faced by gun industry participants have been covered by product liability insurance, with very little funding coming out of pocket. Again, every industry in the country has to insure itself against these risks. It seems to me there is nothing to indicate the insurance claims against these gun lobbies and gun manufacturers are out of line with those. In this respect, the gun lobby is no different than any other industry. Moreover, the power of the gun lobby to protect itself from litigation and promote its views is illustrated by the war chest it has put together for this specific purpose over the past several years.

In 1999, the National Shooting Sports Foundation and others in the gun lobby created what is known as the Hunting and Shooting Sports Heritage Fund by setting aside a small percentage of industry revenues. The fund supports lobbying activities as well as industry public relations initiatives emphasizing the positive aspects of firearms, and it helps cover the cost of retaining internal memos and other sensitive documents with a law firm in California so the gun lobby can avoid the kind of unwanted leaks and exposure that plagued the tobacco industry for many years. Some reports indicate the fund has raised as much as $100 million.

We are going to be talking about a lot of victims of gun violence over the next few days, and I can tell you that none of them has access to a $100 million war chest to protect their legal interests or promote their point of view.

In any case, the purpose of lawsuits filed on behalf of victims is not to bankrupt the industry. In fact, some of the cases filed have sought only injunctive relief, including reforms of industry trade practices that would make the public safer. This is not always about money. In some cases it is about safety for the general public.

It is telling that the new Senate version of the gun industry immunity bill has been changed specifically to ban suits seeking injunctive relief. The argument, of course, is there is a crisis, and the crisis is the financial crisis of the gun manufacturers and the gun dealers, but yet this legislation was altered this year to avoid injunctive relief, which has very little direct impact in terms of awards, punitive or otherwise.

Even when plaintiffs seek commonsense reforms in the industry that could save lives, rather than have money damages, the gun lobby and its allies in Congress seek to shut the courthouse door in the face of these victims.

The findings section of the bill states:

> [T]he possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system.

That sounds reasonable until you consider that the very essence of the cases the bill seeks to eliminate is that the harm suffered by victims of gun violence is often not solely caused by others, but that specific negligent conduct by defendants in the industry contributed to that harm. That is a key point here. This is not a situation as to anyone in the industry—a manufacturer or dealer—who has followed all the rules and has done everything correctly, and then someone else did something wrong. In order to bring a suit for negligence, you have to point out, allege at least negligent activities on behalf of the defendant, be he or she a manufacturer or dealer. So the core here is the allegation that the defendant—those people this legislation seeks to immunize—did something wrong. Liability attaches if a court finds they did something wrong.

Moreover, the bill would exclude many cases that do not seek to hold the entire industry liable but instead focuses on specific dealers or manufacturers based on their negligent contribution to specific instances of harm to victims of gun violence. This is not just a situation where the whole industry is sued. This is a situation where anybody in the industry who is sued gets the benefit of these protections.

Unfortunately, this bill would overturn longstanding, widely accepted principles of civil liability law, which generally holds that persons and companies may be liable for the foreseeable consequences of their wrongful acts. By throwing out common law standards established throughout our Nation's history by State courts, and substituting new standards for negligence and product liability actions conceived by attorneys of the gun lobby, this bill would deprive Americans of their legal rights in cases involving a wide range of industry misconduct.

Even if we concede, for the sake of argument, that some cases against the industry might be frivolous, this bill applies the legislative equivalent of a weapon of mass destruction where a surgical strike would be sufficient. The bill proposes a sweeping Federal intrusion into traditional State responsibilities for defining and administering State tort law, yet there is no evidence that the State courts are not handling their responsibilities competently in this area of law. There has been no rash of questionable jury awards, and not a single decision or final judgment of any court that justifies this unprecedented legislation.

Nevertheless, the bill's proponents seek to preempt the law of 50 States to create a special, higher standard for negligence and product liability actions against gun manufacturers, gun dealers, and trade associations.

We are being asked to do this for an industry that already enjoys an exemption from the Federal health and safety regulations that apply to virtually every other product made in this country. There is no crisis. There is no showing that the gun lobby is in danger of extinction as a result of lawsuits.

We must look at the facts and not the rhetoric. Again, as to a company that spends out of pocket $4,500 a year, when their sales are increasing by about 11 percent, that is not a crisis. There is nothing, I think, substantiated to suggest otherwise.

Now, Mr. President, we are going to engage in a series of discussions over

the next several days here. But I think we have to be very clear, this legislation would undercut State laws and State court practices that have existed for as long as the country has existed. It would do so for the benefit of a very special interest group. It would deny access to courts for people who have been harmed, really harmed.

Let's take some of these cases. Take the case of Denise Johnson, the wife of the late Conrad Johnson. Conrad Johnson was the bus driver who was the final sniper victim of the Washington area snipers. The snipers' Bushmaster assault rifle was one of more than 230 guns that disappeared from the Bull's Eye Shooter Supply gun store in Washington State. The gun store's careless oversight of firearms in its inventory raised serious questions of negligence that fully deserved to be explored by the civil courts.

Two hundred thirty misplaced weapons—if that is not at least a suggestion of some negligence, I do not know what is. This legislation, had it been enacted last year, would have denied the Johnson family their rights in court, their rights to go to that alleged negligent dealer and say: Without your action, without your negligence, my husband, our father, would be alive today.

But in addition to that, the manufacturer's actions also were questionable. Despite questionable control activities in relation to their inventory at Bull's Eye—serious and well-known problems at the gun store—they were still able to acquire weapons from the manufacturer. As I indicated before, the Johnsons were able to settle their claim in court. But if this legislation had passed last year, they would have been thrown out.

Now, there are other examples that are prevalent that also would have been dismissed by this legislation had it been passed, and future cases if, in fact, we pass it in this session.

There is the case of David Lemongello and Ken McGuire, former police officers of Orange, NJ. On January 12, 2001, Mr. Lemongello and Mr. McGuire were shot several times by a violent criminal who should never have had a gun. Because of the injuries he suffered, Mr. Lemongello will never be a police officer again. The gun used in the shooting was one of 12 guns purchased by 2 individuals on a single day from Will Jewelry & Loan, a gun dealership in West Virginia.

Mr. James Gray, a felon, used a woman with a clean record to purchase all 12 guns at once with cash. He and the woman came into the gun shop with thousands of dollars, and Gray pointed out guns he wanted, and then had the woman purchase them in a clear example of a ''straw purchase'' to evade the law. In fact, the gun dealer was so concerned about the suspicious transaction that, after taking the money and giving him the gun, he called the ATF. But it was too late; the guns were already destined for the illegal market. The actions of the gun dealer—who failed to follow sales guidelines recommended by the National Shooting Sports Foundation—raise serious questions of negligence.

The manufacturer of the gun, Sturm, Ruger, is a member of NSSF, yet it failed to require its dealers and distributors to follow the guidelines. At one point in the proceedings, the West Virginia gun dealer and the manufacturer of the gun asked Judge Irene Berger of Kanawha County, West Virginia, to dismiss the case. She heard the gun seller's legal arguments and rejected each of them, applying the general rule of West Virginia law to allow the case to proceed.

Here is a classic example. Someone comes in with another person, purchases 12 guns at once, selects the guns, and pays with cash, but making sure the other person is the one whose name is run through the FBI records check, and then drives away. Doesn't that raise suspicion in your mind if you are a conscientious dealer? Don't you do anything other than call ATF? That is negligence in many respects. Certainly a victim of that crime eventually should have the right to take that case to court.

The gun industry bill would have overridden that judge's decision in West Virginia and thrown out the case of the police officers. Again, the Senate rejected this legislation last year, and in June 2004 Officers Lemongello and McGuire won a $1 million settlement to compensate them for their career-ending injuries. After the lawsuit, the dealer and two other area pawnshops agreed to implement safer practices to prevent sales to traffickers, including a new policy of ending large-volume sales of handguns. These practices go beyond the law and are not imposed by any manufacturers or distributors.

So here is another situation. It is not only the immediate compensation to these police officers whose whole lives and careers have been changed irrevocably; it is also making it safer for other people so the next time someone wanders into this particular gun shop of this dealer, they won't be selling 12 or so handguns without seriously checking who is buying.

Today, as we face another attempt in the Senate to take away the rights of innocent victims of gun lobby negligence, there are still many legitimate pending cases that will be thrown out by the bill before the Senate. We can always anticipate additional situations. In fact, there is a very strong likelihood that if this legislation passes, whatever steps are taken today by gun dealers and manufacturers will be abandoned or lessened because effectively they have a free pass. No one can sue them. They don't have to worry about the litigant going to court and saying, your sales practices or your behavior were negligent. We have given them immunity. In fact, one might even anticipate more incidents.

But there are cases pending today that could be affected. For example, in another case, Guzman v. Kahr Arms, a lawsuit was filed by the family of 26-year-old Danny Guzman of Worcester, MA, who was fatally wounded when a 9 mm gun stolen from a gun manufacturer's plant was stolen by a drug-addicted employee who had a criminal record. The manufacturer, Kahr Arms, operated the factory without basic security measures to protect against thefts, such as metal detectors, security mirrors, or security guards. Guns were routinely taken from the factory by felons it had hired without conducting background checks. The gun used to kill Danny Guzman was one of several stolen by Kahr Arms employees before serial numbers had been stamped on them, rendering them virtually untraceable. The guns were then resold to criminals in exchange for money and drugs.

The loaded gun that killed Mr. Guzman was found by a 4-year-old behind an apartment building near the scene of the shooting. Had Kahr Arms performed drug tests or background checks on the prospective employees or secured its facilities to prevent thefts, Danny Guzman might be alive today. A Massachusetts judge has held that the suit states a valid legal claim for negligence. But this bill would throw the case out of court, denying Danny's family their day in court.

That is the reality of this legislation. That is what we are protecting. We are protecting manufacturers who take no care in hiring employees, yet give them access and proximity to weapons, and who employ no effective security measures. That, at least, is negligence. At least they should be tried in court. This legislation would immunize that.

Ask yourselves again, What incentive would manufacturers such as Kahr Arms have to spend any money on background checks, to spend any money on security? None at all because, frankly, they have a free ride, a pass. No one can touch them. And in this legislation we are not about to start regulating the manufacturing practices of gun manufacturers in the United States.

Now, every industry has good actors and bad actors and the firearms industry is no exception. There are manufacturers that produce high-quality products that feature necessary devices to make the firearms as safe as possible. There are other manufacturers that create poorly designed, poorly constructed firearms that are favored by criminals, that have no place in the home, at the shooting range, or on hunting grounds. Likewise, there are licensed dealers who comply with both the letter and the spirit of our gun laws and do everything in their power to ensure firearms are sold only to lawful buyers. There are other dealers who routinely sell guns regardless of the age or criminal background of the buyer. Essentially, they wink and look the other way.

This small minority of bad apple dealers has a significant impact on gun

violence on our streets throughout the country. According to the Federal data from 2000, 1.2 percent of dealers account for 57 percent of all guns recovered in all criminal investigations; 57 percent of the guns recovered in criminal investigations pass through their hands. Does that suggest there are some gun dealers who are negligent, who are not following the letter or the spirit of the law? And the gun manufacturers know who the problem dealers are because when guns are recovered at crime scenes, they receive firearm tracing reports that show which dealers sell disproportionally to criminals. But in too many cases, the gun industry refuses to police itself.

If this legislation passes, there will be less incentive to take precautions, to take steps to prevent guns from getting in the hands of those people who would use them irresponsibly.

The national crime gun trace data from 1989 through 1996 gathered by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives indicates the following gun dealers sold the highest number of crime guns in America and exhibited crime gun tracing patterns indicative of drug trafficking. Whereas most gun dealers have been associated with zero gun traces, guns sold by these suspect gun dealers turn up in the wrong hands over and over again.

For example, in Badger Outdoors, Inc., of West Milwaukee, Wi, the dealer sold 554 guns traced to a crime, and 475 of those guns had a ''short time to crime'' as defined by ATF. The guns were involved in at least 27 homicides, 101 assaults, 9 robberies, and 417 additional gun crimes. The dealer also sold at least 1,563 handguns in multiple sales. From 1994 to 1996, straw purchaser Lawrence Shikes bought 10 guns from Badger. In one case, he immediately sold the gun to an undercover Federal agent who told Shikes he was a felon. Several weapons Shikes purchased have been recovered from a killer, a rapist, a convicted armed robber, a man who shot a police officer, and three juvenile shooting suspects.

So, again, a very small percentage, but still we are immunizing these people also. This legislation doesn't make any distinction between competent, conscientious gun dealers. It is everyone. And we know everybody is not following the rules as scrupulously as they should.

To put a check on the behavior, if you are harmed and injured by this negligence, go to court and say, I have been harmed, this defendant contributed to my injury and I seek compensation, this legislation will tell that victim, go away; the courts are closed to you.

There are other cases. Realco Guns of Forestville, MD; Southern Police Equipment, Richmond, Va; Atlantic Gun & Tackle, Bedford Heights, OH; Colosimo's of Philadelphia, PA; Don's Guns & Galleries in Indianapolis, IN. Throughout the country, the exception to the rule, and the rule is generally conscientious individuals follow the laws. But this legislation protects these individuals as well as the conscientious dealers. Again, it is inappropriate, unfortunate, unsubstantiated.

Where is the crisis? All the public records we have of the gun manufacturers say there is no material impact on the financial well-being. Those are reports submitted to the SEC, not press releases from lobbying groups. We are going to upset the traditions of tort law throughout this country for a situation where no crisis exists.

Again, we have moved from consideration of one of the most significant pieces of legislation we consider every year, the Armed Forces authorization, to deal with this issue—no crisis, no substance, but an industry-political motivation by the NRA and the gun lobby to protect their members from bona fide allegations of negligence in certain cases.

There is no explosion of suits. These are minimal, a fraction of the tort suits in this country. Yet we are here today to devote a huge amount of time after moving away from the Defense bill to consider this legislation. Procedurally, it is terrible. We should be talking now, as we all hoped we would, about further benefits for our military personnel, about improving their quality of life, improving their equipment, giving them the resources to defend us. Yet we are now staked out, literally, to try to provide benefits for the negligence of a few people in an industry that has no financial crisis and is in no danger of going away.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, there still remains a very serious problem and a very serious threat to gun manufacturers in the United States. Sure, a lot of these cases have not been successful because they are so bogus, so contrary to classical rules that a person is not liable for an intervening action done by a criminal, an intervening criminal act.

I will add, when I was a U.S. attorney, an individual walked off a veterans hospital grounds and was murdered. They sued the VA hospital for wrongful death. I defended on the theory that the hospital could be liable under certain circumstances, but there was a strong principle of law which I cited that an intervening criminal act is not foreseeable. You are not expected to foresee that someone will take a lawful product and use it to commit a crime or that they would commit a crime. This is a settled legal principle.

We are eroding these things and we end up with all kinds of problems. That is one of the things disrupting our legal system, particularly if there is a political cause here, a group of people who absolutely oppose firearms in any fashion. Mayors in major cities are encouraging these lawsuits and pushing them. We end up with some real problems.

Let me share with our colleagues this letter from Beretta Corporation. It was mailed out in 2005 by Mr. Jeff Reh, general counsel, written to the Vice President of the United States. He says a few weeks ago the District of Columbia Court of Appeals issued a decision supporting a DC statute that those manufacturers of semi-automatic pistols and rifles are held strictly liable for any crime committed in the District with such a firearm.

It had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm makers, manufacturers, importers, and distributors liable for the cost of criminal gun misuse in the District.

The court of appeals, sitting en banc, dismissed many parts of the case but did rule that:

> Victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting, and if so, they become liable.

He goes on to say that such a decision ''will make firearm manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a State far from the District of Columbia and to a lawful customer.''

If you sell a gun to somebody in Minnesota and they bring it to DC and some criminal uses it to shoot somebody, the gun manufacturer now becomes liable for that Beretta or Smith & Wesson or whoever made it. They go on to say this decision ''has a likelihood of bankrupting not only Beretta, but every maker of semiautomatic pistols and rifles since 1991.'' There are hundreds of homicides committed with firearms each year in DC, and others are injured. And the defendants, under this bill, would have no defense that they originally sold the pistol or rifle to a civilian customer. So they ask that this legislation be supported.

> Without it, companies like Beretta, Colt, Smith & Wesson, Ruger, and dozens of others, could be wiped out by a flood of lawsuits emanating from the District. This is not a theoretical concern.
>
> The instrument to deprive the United States citizens of the tools through which they enjoyed a second amendment freedom now rests in the hands of trial lawyers in the District. Equally grave, control of the future supply of firearms needed by our fighting forces and law enforcement officials and private citizens throughout the country also rests in the hands of these attorneys. We will seek Supreme Court review of this decision, but the result of a Supreme Court review is not guaranteed. Your help might provide our only chance of survival.

It is the principle of the thing we are concerned about, first and foremost. Do we believe that a manufacturer who complied with the law and who sold a gun in Minnesota or in Kansas and sold it lawfully, according to the rules of the State of Alabama or Minnesota and Federal Government rules, and that gun ends up in the District of Columbia, they now become liable for an intervening criminal act? That is not a principle of law that can be defended,

according to justice or fairness. But we are in that mode now of using the courts to effect a political agenda that goes beyond what the Congress and elected representatives are prepared to vote. In effect, it would bankrupt these companies and may be able to prohibit people from even having firearms or certainly denying them a place to go buy a new firearm and ultimately denying them the right to purchase firearms.

So that is what we are concerned about. We are not trying to overreach here. We are trying to eliminate this political abuse of the legal system to effect a policy decision not subject to being won in the legislative branch.

Under this bill, I think it is very important to note that you can sue gun sellers and manufacturers who violate the law. It is crystal clear in the statute that this is so. To start off, one of the first things it says is an action can be brought against a transferer—that is, a seller—of a gun by any party directly harmed by the product of which the transferee is so convicted for violating the law. It also says this in paragraph 2:

These are actions that are allowed to be maintained by this legislation and are not constricted.—An action brought against a seller of the gun for negligent entrustment for negligence per se.

It is some sort of negligent act that gave the gun to the customer. We will leave it at that.

No. 3, an action can be brought against a manufacturer or seller of a qualified product, or gun, who knowingly violated a State or Federal statute applicable to the sale or marketing of the product when that was the proximate cause of the injury, such as the 12 guns being sold and mentioned by Senator REED earlier. I suspect that violated a law. It is certainly a violation of the law for a person to knowingly or negligently entrust a gun to someone when they believe or have reason to believe that it is a straw purchase. That would be a violation of the law. You have to produce an ID, sign a statement, say it is your gun, say you have not been convicted of a crime, say you are not a drug addict, where your residence is, and other laws that States and communities may have, such as waiting periods, before you can pick it up. You have to wait for the background check to see if those statements you made are valid.

So you can still bring those lawsuits if you don't comply with that. Lawsuits can be brought whenever the manufacturer or seller knowingly made any false entry or failed to make, negligently or otherwise, an appropriate entry in any record required to be kept under Federal or State law with respect to the qualified product or if they aided or abetted or conspired with any person in making any false or fictitious oral or written statements with respect to any material fact to the law necessary in the sale or other disposition of the qualified product. And if they can maintain a lawsuit also, if you aided and abetted or conspired to sell or dispose of a qualified product, knowing or having reasonable cause to believe the buyer of the qualified product was prohibited from possessing or receiving a firearm, which would include a straw purchase, if you know you are selling it to this person and you know it is going to that person, then you would know that would be improper and it would be a negligent entrustment or violation of the statute.

I think those are important exceptions, as are many others. So it doesn't give immunity to gun dealers. That much we can say for sure. Now, it has been said that, well, these dealers—this little gunshop down here did something wrong and they would have insurance and the insurance company would pay. It is not so bad on them. But, Mr. President, that is a slippery slope, an unwise public policy argument that I think we use too much. One of the things that raises questions in my mind about the effectiveness of a lot of litigation today is it is argued that it is going to punish this person who did something wrong. But in truth, the insurance company pays all of it probably—maybe all of it, maybe a small deductible is paid by the wrongdoer, and insurance company pays the cost of defending the lawsuit. It is not the wrongdoer. So the juries are told they are punishing this wrongdoer who made an error, but really the insurance company pays it. What happens? They raise the rates on everybody. So if one gun dealer has messed up and he gets sued, as he should be, and he has to pay a verdict, the weird way our system is working today is the insurance company pays the verdict, and everybody's rates go up—every gun dealer who complies with the law, their rates go up too. It is something that has been bothering me as time goes by.

They are stating, as legal theories, broad powers and requesting broad relief, similar to some of the things I mentioned here in the District of Columbia in the Beretta letter. Sometimes the plaintiffs have argued that the very sale of a large number of guns and pistols, when a manufacturer knows that some of those ''might'' end up in the hands of criminals, means that they become liable. What kind of law is that? It is a stretch beyond the breaking point that if you comply with the law, you sell a firearm to a lawful customer in your shop and they have the proper identification, and you take all the proper steps, somehow that you become liable if that person utilizes it unlawfully or sells it or gives it to somebody who utilizes it unlawfully.

That is not the way the American legal system works. Those are the kinds of lawsuits being pushed, I submit, for political reasons because people are frustrated that they have not been able to get the legislatures to eliminate firearms. Who should be liable? The person who commits the crime. John Malvo—if he commits a crime using a gun, he should be the one that pays and is sued in our system but, of course, people say Malvo doesn't have any money, so we will sue Wal-Mart because Wal-Mart sold the gun to somebody and it eventually went through somebody's hands and they got it, or whatever store sold the gun. Or we will even sue Smith & Wesson in Boston because they sold the gun and somebody was injured with it. What kind of law is that? I am very concerned about this theory. We have moved so far from our principle of liability. That is why it is quite appropriate here. And there may be other instances with other businesses around the country that are being unfairly held liable for actions that should not be their responsibility.

I will make a point about the serial number. I raised an issue I am personally aware of. The manufacturers have to put a serial number on every gun, which has to be recorded every step of the way as it moves from the manufacturer, to the distributor, to the subdistributor, to the retail store, to the customer. They are recorded and kept up with. A statement is filed including the name, address, phone number, driver's license, and a number of other things that are required by State and Federal law before it can ever be sold. It is now, and has been for many years, a crime to produce a gun that does not have that serial number, and it is a crime to erase it. It is a crime to sell a gun that doesn't have a serial number on it or has a number that has been erased. When I was a Federal prosecutor, I prosecuted many cases—30, 40, or 50 cases—in which criminals, thinking they could somehow avoid detection, would file off the serial number or somebody filed it off for somebody and delivered it to them, and both of them have committed a crime at that point. That is because we want to be able to identify that weapon and not have it subject to moving around without being able to be identified.

I would just say, there are a lot of laws that we pass in our legal system to clamp down on the sale of guns because they are, indeed, a dangerous instrumentality. But our Constitution provides the right of citizens to keep and bear arms. Our State and local laws provide that protection to our citizens, and we set many restrictions on it. The problem we are dealing with is the possibility that courts will create legal liability on a manufacturer of a lawful product, a lawful product that has been sold according to the strict requirements of Federal and State law, and that they somehow become an insurer of everything wrong that occurs as a result of the utilization of that lawful product.

All we are trying to do is bring some balance. I think the statute has been gone over for many years now. People on both sides of the aisle understand; there are probably 60-plus votes of people who are prepared to vote for this

legislation. One reason it has that kind of broad support is that the bugs have been worked out of it. Things that would have gone too far have been eliminated. People have had many months to review it. I think we have a good piece of legislation.

I respect my colleagues who differ, but I strongly think it would be in the interest of good public policy to pass this legislation, and that is why I support it.

I offer the letter from the Beretta Corporation and ask unanimous consent it be printed in the RECORD.

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

BERETTA U.S.A. CORP.,
Accokeek, MD, May 11, 2005.

Hon. RICHARD B. CHENEY,
Vice President of the United States, Eisenhower Executive Office Building, Washington, DC.

DEAR MR. VICE PRESIDENT: A few weeks ago, the Washington, D.C. Court of Appeals issued a decision supporting a D.C. statute that holds the manufacturers of semiautomatic pistols and rifles strictly liable for any crime committed in the District with such a firearm.

Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm makers, importers and distributors liable for the cost of criminal gun misuse in the District. Although the Court of Appeals (sitting en banc in the case D.C. v. Beretta U.S.A. et al.) dismissed many parts of the case, it affirmed the D.C. strict liability statute and, moreover, ruled that victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is unlawful to possess most firearms in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two criminal acts, neither of which are within the control of or can be prevented by firearm makers, the D.C. strict liability statute (and the D.C. Court of Appeals decision supporting it) will make firearm manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a state far from the District to a lawful customer.

Beretta U.S.A. Corp. makes the standard sidearm for the U.S. Armed Forces (the Beretta M9 9mm pistol). We have long-term contracts right now to supply this pistol to our fighting forces in Iraq and these pistols have been used extensively in combat during the current campaign, just as they have seen use since adopted by the Armed Forces in 1985. Beretta U.S.A also supplies pistols to law enforcement departments throughout the U.S., including the Maryland State Police, Los Angeles City Police Department and to the Chicago Police Department. We also supply firearms used for self-protection and for sporting purposes to private citizens throughout our country.

The decision of the D.C. Court of Appeals to uphold the D.C. strict liability statute has the likelihood of bankrupting, not only Beretta U.S.A., but every maker of semiautomatic pistols and rifles since 1991. There are hundreds of homicides committed with firearms each year in D.C. and additional hundreds of injuries involving criminal misuse of firearms. No firearm maker has the resources to defend against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them—a judgment against which they would have no defense if the pistol or rifle was originally sold to a civilian customer.

When the D.C. law was passed in 1991, it was styled to apply only to the makers of ''assault rifles'' and machineguns. Strangely, the definition of ''machinegun'' in the statute includes semiautomatic firearms capable of holding more than 12 rounds. Since any magazine-fed firearm is capable of receiving magazines (whether made by the firearm manufacturer or by someone else later) that hold more than 12 rounds, this means that such a product is considered a machinegun in the District, even though it is semiautomatic and even if it did not hold 12 rounds at the time of its misuse.

The Protection of Lawful Commerce in Arms Act (S. 397 and. H.R. 800) would stop this remarkable and egregious decision by the D.C. Court of Appeals. The Act, if passed, will block lawsuits against the distributors and dealers of firearms for criminal misuse of their products over which they have no control.

We urgently request your support for this legislation. Without it, companies like Beretta U.S.A., Colt, Smith & Wesson, Ruger and dozens of others could be wiped out by a flood of lawsuits emanating from the District.

This is not a theoretical concern. The instrument to deprive U.S. citizens of the tools through which they enjoy their 2nd Amendment freedoms now rests in the hands of trial lawyers in the District. Equally grave, control of the future supply of firearms needed by our fighting forces and by law enforcement officials and private citizens throughout the U.S. also rests in the hands of these attorneys.

We will seek Supreme Court review of this decision, but the result of a Supreme Court review is also not guaranteed. Your help in supporting S. 397 and H.R. 800 might provide our only other chance at survival.

Sincerest and respectful regards,
JEFFREY K. REH,
General Counsel, and Vice-General Manager.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, this is an important debate and discussion, but I ask unanimous consent to speak on a different topic and have it count against the 30 hours.

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

GUARANTEED VETERANS HEALTHCARE

Ms. STABENOW. Mr. President, I had hoped at this time to come to the floor to vote on an amendment that I introduced with Senator TIM JOHNSON and other colleagues, to make sure that veterans health care funding is, in fact, secured and stable for the future through an amendment which was supported by the American Legion—by many groups—the Disabled American Veterans, Blind Veterans of America, Jewish War Veterans of the USA, AMVETS, Veterans of Foreign Wars, Paralyzed Veterans, Military Order of the Purple Heart, Vietnam Veterans—all of whom want us to pass the Stabenow amendment which would make veterans health care funding mandatory, reliable, rather than having the situation we are in with the VA coming to us with a shortfall right now and asking for emergency funding, then a debate on what we are going to do for next year.

This is a very important amendment. It was pending prior to the vote on whether to invoke cloture, or to bring one level of debate to a close. If cloture had been invoked, this amendment would not be in order to be voted on. It would not have been in order, which is why, among other reasons, I voted not to proceed to invoking cloture.

There are a number of very important amendments that address the needs of our troops and their families, and other important issues about keeping us safe, securing nuclear materials, and other critical issues that were brought forward by colleagues on both sides of the aisle. These are amendments that need to be debated and included, in many instances, I would say, in the Defense reauthorization bill.

I am deeply disappointed that instead of proceeding with that work and getting it done in the next day or two, which we on this side of the aisle committed to do—our leader indicated we would commit to stay here and get that work done—instead of doing that, we saw the leadership put this aside and go to another issue that is of concern, I know, to the gun industry.

But we are at war. We are at war. We have men and women who need our best efforts, both those who are our troops serving us, as well as those who have a veteran's cap on right now who have served us in other wars or come home from Iraq and Afghanistan.

I want to speak to the Defense authorization bill which I strongly support, as well as the amendment that I hope we will return to when we come back to the Defense bill. I hope it will be very quickly because our men and women in the armed services are counting on us to get the work done and make it the best product we can possibly make it in terms of our national defense and the Defense reauthorization.

I do support the 2006 Defense authorization bill. I believe providing the equipment and resources our service men and women need to do their jobs is one of our most important responsibilities, which is why I wish we were debating that right now. This duty is especially important, as I said before, in a time of war. As everyone knows, our men and women in uniform are under tremendous stress as they either prepare to deploy or are currently serving their country in Iraq and Afghanistan. I am pleased the Defense reauthorization bill will authorize a 3.1-percent pay raise for military personnel and provide $70 million in additional funds for childcare and family assistance services for our military families.

I know Senator MURRAY has an additional amendment that relates to supporting families and childcare, which I think is very important.

Foremost in the minds of the men and women in uniform with whom I

visit is the safety and security of their families. The bill that was pulled in order to have this debate on gun manufacturers is a bill that also authorizes $350 million in additional funding for up-armored vehicles, and $500 million for the Improvised Explosive Device Task Force.

It also continues our strong support for the Nunn-Lugar cooperative threat reduction programs that work to keep weapons of mass destruction out of the hands of terrorists—an incredibly important effort that needs to be fully funded and receive our full commitment in every way.

These and other important provisions of this legislation will help make our country safer, make our troops safer and more capable as they serve us abroad.

I met with men and women from Michigan and across the country who are recovering at Walter Reed Army Medical Center. Some have suffered minor injuries that will not have a dramatic impact on the rest of their lives. Others, because of their injuries, will need years of rehabilitation and will face considerable obstacles as they return to their civilian lives. We owe these men and women our continued support so they can recover from their injuries and lead productive lives.

Today's soldiers are tomorrow's veterans. America has made a promise to these brave men and women to provide them with the care they need and deserve. They deserve the respect and support of a grateful nation when they return home. We also owe it to the men and women who have fought America's prior conflicts to maintain a place for them in the VA system so they can receive the care they need. We need to keep our promises to our veterans, young and old.

Today, I was privileged to participate in a press conference before the question came up about closing debate on these kinds of amendments. I was pleased that the current National Commander, Tom Cadmus, who is from Michigan, was there representing the American Legion. There were numerous other veterans organizations represented, as I listed earlier in my comments. All of them were saying to us: Let's stop this taking from one pocket to put in the other, taking from Peter to pay Paul, with our veterans. Let's keep the promise of veterans health care, period, and put veterans health care into a category that will allow that to happen on an ongoing basis.

I believe we must consider the ongoing costs of medical care for America's veterans as part of the continuing costs of national defense. The long-term legacy of the wars we fight today is the care for the men and women who have worn the uniform and been willing to pay the ultimate price for their Nation.

Senator JOHNSON and I and other colleagues are offering this amendment, which is currently still pending on the Department of Defense reauthorization, to provide full funding for VA health care to ensure that the VA has the resources necessary to provide quality health care in a timely manner to our Nation's sick and disabled veterans. The Stabenow-Johnson amendment provides guaranteed funding for America's veterans from two sources. First, the legislation provides an annual discretionary amount that would be locked in future years at the 2005 funding level. Second, in the future—and importantly—the VA would receive a sum of mandatory funding that would be adjusted year to year based on changes in demand from the VA health care system and the rate of health care inflation. In other words, it would depend on the number of veterans rather than this arbitrary debate now on inflationary increases.

We know the current formulation has not worked because the VA tells us that they are over $1 billion short now in funding for health care services for our veterans. I think that is absolutely inexcusable, and it needs to be fixed permanently. The amendment that we have offered creates a funding mechanism that will ensure that the VA has the resources it needs to provide a steady and reliable stream of funds to care for America's veterans, and it will also ensure that Congress will continue to be responsible for the oversight of the VA health care system, as it does with other Federal programs that are funded directly from the U.S. Treasury.

In fact, this amendment would bring funding for veterans health care into line with almost 90 percent of the health care funding that is provided by the Federal Government. Almost 90 percent of federally funded health care programs are in the mandatory category, not discretionary. Why in the world would we say to our veterans they don't deserve the same kind of treatment in terms of the Federal budget for mandatory spending that other programs receive, such as Medicare and Medicaid?

The amendment also requires a review in 2 years by the Comptroller General to determine whether adequate funding for veterans health care was achieved. Depending on the outcome of this review, Congress would have the opportunity to make changes to the law to ensure that veterans receive the care they deserve.

The problem we face today is that resources for veterans health care are falling behind demand. In other words, we are creating more veterans than we are covering under our health care system. Shortly after coming into office, the President created a task force to improve health care delivery for our Nation's veterans. The task force found that historically there has been a gap between the demand for VA care and the resources to meet the need. The task force also found that:

> The current mismatch is far greater . . . and its impact potentially far more detrimental, both to the VA's ability to furnish high-quality care and to support the system to serve those in need.

The task force released its report in May of 2003, well before we understood the impact of our men and women fighting in Iraq and Afghanistan, and what that would mean to our veterans' health care system. If this mismatch between demand and resources was bad in May of 2003, imagine what it is today. That is why we see this gap. That is why we need to address—and the Senate has now passed, twice—$1.5 billion for emergency spending for veterans health care.

Over 360,000 soldiers have returned from Iraq and Afghanistan, and over 86,000 have sought health care up to this point from the VA.

There are an additional 740,000 military personnel who served in Iraq and Afghanistan. They are still in the service. This next generation of veterans will be eligible for VA health care and will place additional demands on a system that is already strained.

In addition, each reservist and National Guardsman who has served in Iraq is eligible for 2 years of free health care at the VA. I support that. The administration has in its own way admitted that they do not have sufficient resources to provide adequate care for America's veterans. While they would not until recently admit that there was a shortfall, they have for years attempted to ration care and cut services at the expense of our Nation's veterans. This is just not acceptable.

In 2003, the VA banned the enrollment of new priority 8 veterans. For the past 3 years I fought attempts by the administration to charge our middle-class veterans a $250 enrollment fee to join the VA health care system, and a 100-percent increase in prescription drug copays.

This year the administration also proposed slashing Federal support for the State veterans homes from $114 million to $12 million. The heads of the Grand Rapids Home for Veterans and the D.J. Jacobetti Home for Veterans in Marquette tell me these cuts would be devastating to them in serving our veterans in Michigan. The fiscal year 2005 and 2006 VA health budgets are a case study in why Congress should guarantee reliable and adequate resources through direct spending. Last March, the President submitted an inadequate fiscal year 2005 budget request for VA health care to Congress. That fell $3.2 billion short of the recommendation of the Independent Budget, which is an annual estimate of critical veterans health care needs by a coalition of leading veterans organizations. In fact, in February 2004, Anthony Principi, then the Secretary of the VA, testified before Congress that the request the President submitted to Congress fell $1.2 billion short of the amount he had recommended. It then fell to Congress to again increase the amount provided to VA for health care. The final amount Congress provided to the VA for health care was $1.2 billion over the President's request. While above the President's request, it was

still not enough to meet the immediate needs.

In April of this year, I supported an amendment by Senator MURRAY to the fiscal year 2005 supplemental to Iraq and Afghanistan to provide $1.9 billion for veterans medical care, specifically for those veterans returning from Iraq and Afghanistan.

During the debate on the amendment, we were again told that the President's budget was sufficient. In fact, on April 5, Secretary of Veterans Affairs Jim Nicholson sent a letter to the Senate that said:

> I can assure you that the VA does not need emergency supplemental funds in the 2005 budget to continue to provide timely quality service. That is always our goal.

Mr. President, since April the story has changed, and we now know the truth.

On June 23, 2005, the VA testified before Congress that they forecasted a 2.5-percent growth in demand—in other words, more veterans, as we have all been saying, more veterans coming into the system—when in fact the increased demand this year is 5 percent. They said 2.5 percent; it actually was 5 percent. This has left the VA with a $1 billion shortfall. I was proud to support an amendment the following week to the Senate's Interior appropriations bill that provided an additional $1.5 billion for veterans health care. The following day, on June 30, the House passed emergency supplemental legislation that would cut this by $575 million, in line with the President's request.

At the time, our friends in the House suggested that the Senate was making up numbers. In fact, we wanted to be sure that the VA had enough funds to cover the shortfall and to cover any potential shortfall of next year. As it turned out, we received more bad news from the administration a couple weeks ago, on July 14, when the administration requested another $300 million for this year and a whopping $1.7 billion for next year. The total shortfall for this year and next now stands at nearly $3 billion.

The Interior appropriations bill is currently in conference. I am hopeful that the bill will include $1.5 billion for this year, as the Senate has twice unanimously supported. Further, last week the Senate Appropriations Military Construction and Veterans Affairs Subcommittee, under the able leadership of Senator HUTCHISON and Senator FEINSTEIN, included extra funding to cover the 2006 shortfall in VA health care.

Mr. President, I recall all of these events to make two points. First, it is clear that the demand for VA health care is increasing, and a good portion of this increase can be attributed to men and women seeking care after they have returned from Iraq and Afghanistan. Second is to show that despite the best intentions of the VA and Congress, the VA does not have a reliable, and dependable stream of funding to provide for veterans health care needs. We should not have to pass an emergency funding bill to give our veterans the health care they have earned.

Imagine that. It is not acceptable. It has been over a month and Congress has still not resolved the $1.3 billion shortfall in VA medical services for this year. We owe our service men and women more than that.

In 1993, there were about 2½ million veterans in the VA system, and there are more than 7 million veterans enrolled in the system, over half of which receive care on a regular basis today. Despite the increase in patients, the VA has received an average of a 5-percent increase in appropriations over the last 8 years. At last count, at least 86,000 men and women who have returned from Iraq have sought health care from the VA, and we can safely assume this number will reach hundreds of thousands. This bill gives the resources our troops need to prepare and defend our country in Iraq. We must not forget them when they come home. We have an obligation to keep our promises to our veterans.

Mr. President, I am very hopeful that we will quickly return to the Defense reauthorization bill and have the opportunity to show our veterans all across America that we will permanently keep our commitment to them by passing the Stabenow-Johnson amendment. There are other important amendments that remain in front of us now because we have discontinued the opportunity for us to improve on this bill, a bill I support, but a bill that needs to be the very best that we can do for our men and women serving us today and for our veterans. I hope we will quickly return to it and that we will get about the business of continuing to work on these critical amendments and quickly bring this to a close. And we can do it this week if there is the will to do it so that we provide the very best to our men and women in service and those who have come home and put on the veterans cap.

Mr. President, I yield the remainder of my time under the 30 hours to Senator REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. First, let me thank the Senator for yielding the time. I appreciate that very much. I want to make some brief comments.

My colleague and friend from Alabama made reference to the Beretta Company and apparently their concern about legislation in the District of Columbia. I want to make a few points to clarify what I believe the context of this letter from Beretta is. First, the District of Columbia Council apparently passed strict liability legislation which is an example of an elected body, not a judge, making up laws. We might disagree with them, but the point is that this is an elected body doing this; this is not judge-made law. As I understand it, the Court of Appeals for the District of Columbia simply upheld the statute. They acted appropriately, procedurally correct, and the statute is in force. I do not know if this is the intent of the suggestion, but a lot of the debate today has been about letting legislators and legislatures do their jobs without defying the court. In this situation of Beretta, that is exactly what happened. The DC Council acted, the court of appeals said we have no reason to disagree substantively with what you have done and the law stands.

But I think there are much more important points to be made in the context of this legislation. The proposed legislation is not simply attempting to eliminate claims of strict liability against gun manufacturers, gun dealers, and trade associations. It goes all the way to wiping out a broad array of negligence claims. And the essence of negligence is that the defendant, or the one who is being accused of negligence, must fail to perform some duty, the duty to the injured party.

There has to be some personal action, not simply doing something that has been legislatively ruled to be wrong. In that context, one can look at the concerns of the Beretta Company about strict liability much differently than in this legislation, and I think it would be wrong to assume and argue that because they are concerned about strict liability applied entirely to the legislation before us.

Now I assume they oppose the legislation. But the issue is much broader than strict liability; it is negligence. It is not a situation where a manufacturer or an individual will be held liable for something they never did. The essence of negligence is you have to fail to perform a duty, and that is at the heart of the legislation before us, providing broad exemptions and immunities for gun dealers, gun manufacturers, and trade associations whose own conduct would at least lead to allegations in court of negligent behavior.

I wanted to make those two points, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I ask to speak on a nongermane topic for approximately 10 minutes.

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

Mr. SESSIONS. Mr. President, reserving the right to object, the time would be counted against the 30 hours; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SESSIONS. No objection.

Mrs. MURRAY. I thank the Chair.

BRIAN HARVEY

Mr. President, I rise this afternoon to honor Brian Harvey. He is a loving husband, father, grandfather, teacher, advocate, and a hero in the fight to protect Americans from deadly asbestos.

Anyone who has followed the debate over asbestos in Congress will immediately remember Brian for his booming voice, for the way he could capture the attention of every person in a packed committee hearing room and for his commitment to saving lives and bringing victims the justice they deserve.

This picture shows him doing what he did best: urging Congress to ban asbestos and to protect victims. Brian Harvey is my hero.

Mr. President, it is my sad duty today to report to the Senate that Brian passed away on Friday, July 22. Today, I want to extend my condolences to his entire family, including his wife Sue, his daughter Valerie, his stepchildren Ethan, Anne, and Amy, and his three grandchildren. But mostly I want to share my thanks that Brian was given more time on this Earth than many asbestos victims and that he used that time to help others.

I was very lucky to work with Brian over the past 3 years. We came together at an important time in both our lives and in the history of congressional action on asbestos. Back in 2002, Brian was defying the odds in fighting mesothelioma and looking for a way to share his experience and to help others. At the same time, I was 1 year into my effort in the Senate to ban asbestos.

I was surprised and horrified to learn that asbestos was still being put in lots of commonly used consumer products on purpose. In my research, I learned about the deadly toll of asbestos diseases and about the lack of prevention, research, and treatment. I wrote a bill to address those critical needs. I was very proud to have Brian Harvey at my side and at the podium as I introduced that bill in June of 2002.

Brian Harvey is my hero because he never hesitated to stand up and speak truth to power. Whenever we had a hearing or press conference, whenever Senators needed to understand the horror of asbestos disease, whenever my legislation needed a little boost or a powerful push, Brian Harvey was the first person on a plane from Washington State all the way here to Washington, DC.

Like so many asbestos victims, Brian was exposed to asbestos through no fault of his own. Brian grew up in Shelton, WA, and like me he attended Washington State University. During his summers back in college, Brian worked at a paper products mill in Shelton, WA. That is where he was exposed to asbestos fibers, but the damage of that exposure would not be revealed until three decades later.

In September of 1999, Brian experienced shortness of breath and fatigue. He was diagnosed with mesothelioma, and the odds were stacked against him. Most people diagnosed with mesothelioma who do not receive treatment die within 8 months. Those who do receive treatment increase their life expectancy to an average of only 18 months. Overall, a person's chance of surviving 5 years is 1 in 20. Brian lived 6 years after being diagnosed. He was truly one in a million.

Brian Harvey was lucky in many ways. He was diagnosed early. He got experimental treatment at the University of Washington. He had skilled doctors and medical professionals, and he had the support of his entire family and many friends. Many asbestos victims are not that lucky. Brian recognized that, and he used the time he was given to speak up for others whose lives and families have been torn apart by asbestos.

Brian Harvey is my hero because he did not despair about his own personal challenges. Instead, he shared those challenges with all of us, helping us to understand the threat and to inspire change in our public policy. And he did it with an actor's presence and a deeply human personal touch. Brian used to say to me that the left side of his body was made of Gore-Tex. And it was. But that did not explain Brian's toughness or his determination.

That came solely from his heart.

Brian Harvey is my hero because he made a difference. He pushed Congress to treat victims fairly and to ban asbestos. While that work is still a work in progress, Brian's voice and passion echo as loudly today as they did that day 3 years ago when he stood beside me as we introduced the bill for the first time. Brian Harvey is my hero because in the face of so many challenges that could have drained his energy, he found the strength inside to fight the good fight.

Every time I stood up for asbestos victims, Brian Harvey was at my side. He was there on June 28, 2002, when I first introduced my bill. He was by my side in June of 2003 when we stood together to call for fairness for asbestos victims. On March 5, 2003, Brian testified before the Senate Judiciary Committee, and with his passion and power he called for increased detection and fair compensation for asbestos victims. Three months later, on June 24, 2003, the Judiciary Committee included my ban in its reform bill. On March 25, 2004, at a press conference to call for passage of my bill, Brian Harvey was there as well.

It is very hard for me to picture the next hearing or press conference without Brian standing by my side. But I will continue the fight. When Brian and I met 3 years ago, the odds were against both of us. The medical odds were against Brian. Every day for him was a triumph. And the legislative odds, the chance we could pass a bill, were against both of us. We have made progress, but we are not there yet. I know it will be harder without Brian's advocacy, but I also know he has done so much to bring that goal now within reach. I know eventually we will ban asbestos, we will ensure victims are treated fairly, we will find new treatments for asbestos disease, and we will protect future generations from this epidemic. When that day comes, all of us will have Brian Harvey to thank.

Again, I extend my thoughts and my prayers to Brian's lovely family and his many friends. Last week, when Brian was in the hospital, I spoke to his wife Sue and his daughter Anne. Brian was not well enough for me to speak with him, but I talked to the nurse at his bedside. I asked her to tell Brian something that I have always wanted him to know: You are my hero. Brian Harvey was given extra time on this planet to help other people. That is exactly what he did. Brian Harvey will always be my hero.

I yield the rest of my time to the Senator from Rhode Island.

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

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to speak as in morning business.

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

TRAGEDY AT THE BOY SCOUT JAMBOREE

Ms. MURKOWSKI. Mr. President, when people ask me what is the best thing about Alaska, I can talk about the mountains, I can talk about the trees, I can talk about our great salmon. They are all very wonderful, very special. But the very best thing about Alaska is its people. The spirit of voluntarism and civic engagement is what makes Alaska one of the best places in the Nation to live and to raise families.

Alaskans not only invest their time and energy in their own children, they also invest it in the development of their neighbors' children. This spirit of giving manifests itself in the thousands of hours that adult volunteers contribute to youth activities, such as Scouting.

Scouting enriches the lives of young people in many parts of my State because adult volunteers give generously of their time to work with our young people. My two boys have proudly participated in Scouting in the Mat-Su Western District as members of Troop 176 in Anchorage. I am very proud of the opportunities they have through Boy Scouts.

Now, as we know, last evening there were four adult volunteers who were associated with the Western Alaskan Council of the Boy Scouts of America who lost their lives at the Boy Scout Jamboree which is taking place at Fort A.P. Hill near Fredricksburg, VA. Accounts in the newspapers this morning back home in Anchorage were riveting,

tragic, and I think they hit all of us in a place in our heart we are always going to remember.

Mr. President, the four gentlemen who were killed last evening were:

Ron Bitzer of Anchorage. Ron and his wife Karen had just recently made the decision to move out of State. They were selling their home, and they were going to be moving out of State.

Michael LaCroix, who I had the privilege of working with on the Boys & Girls Club board. Mike was a small businessman and owned a very successful business in Anchorage. He was with his son here in the jamboree.

Michael Shibe of Anchorage was also here with two of his sons, twin boys.

The fourth individual was Scott Powell. Scott moved from Alaska, as I understand, just last year. He had served for more than 20 years as the program director of Camp Gorsuch, which is the Boy Scout camp in Alaska.

In my office today, we were talking about Scott Powell and the recognition that just about every Boy Scout in Alaska and the moms and dads who go either to help out at the camp or go there for the end-of-camp ceremonies knew, recognized, and loved Scott Powell. He touched the lives of countless Alaskan youth.

All of these gentlemen are going to be terribly, terribly missed.

Another Alaskan volunteer, Larry Call, of Anchorage, was injured in the incident. We understand he is hospitalized. Of course, we are praying for his speedy recovery.

I do not intend to dwell this afternoon on the tragic details of what has happened. The fact is, these men are heroes and should not be remembered for the way they lost their lives but for how they lived their lives. This is a phrase that was coined by Vivian Eney, the widow of a U.S. Capitol Police officer, who lost her husband in a sudden and unexpected training accident.

The four Scout leaders who we pause to think about today will be remembered for the way they lived their lives. They will be remembered as heroes for the service they gave to the young people of Alaska.

At this time, Mr. President, I ask unanimous consent that the Senate observe a moment of silence so we may reflect upon the events that occurred last evening and so we may also express our love and our support for the Scouts and their family members.

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

(Moment of silence.)

Ms. MURKOWSKI. Mr. President, my message to the families of these five outstanding leaders and to all of the Boy Scouts in Alaska and around the world is simple: Please know that the Senate and, indeed, the Nation grieves with you on this very difficult day.

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

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator MURKOWSKI for her eloquent remarks and for taking this opportunity to reflect on the contribution of these Boy Scout leaders to the moral and spiritual and emotional and psychological maturation of young boys.

The truth is, young boys today are having a harder time than girls in relation to their graduation rate from college, their crime rate, their imprisonment rate. There are other problems occurring in boys. Boys are struggling in our society today.

I am a strong believer in the Boy Scouts. I thank so much the Senator from Alaska for her kind remarks. I had the honor to be an Eagle Scout. Every Thursday night, a group of us from Hybart, AL, met in Camden, AL, which was 15 miles north of Hybart. Hybart was just a little crossroads community. My father had a country store. There were a couple little stores. People were farmers and carpenters and worked at the railroad or whatever.

There were nine boys there. Of those nine boys, eight became Eagle Scouts. I don't think a single one had a parent who graduated completely from college. One became a Life Scout, he almost became an Eagle Scout. And as I think of those kids with whom I grew up, they did well. One is a Ph.D. now, teaching at the University of South Carolina. One is a dentist in Charleston. One is a medical doctor, Johnny Hybart from Hybart. He is in Pensacola now, working at the hospital there. Bob Vick is a CPA. Pete Miles is an engineering graduate and a former plant manager at a major corporation. And Andy and Greg Johnson both graduated from college, one in engineering and one in business, and are very successful. Mike Hybart graduated with a horticulture degree from Auburn and is in the real estate business now.

It was a great pleasure for me to participate as a member of Troop 94 in Camden. As the Senator from Alaska read the names of Michael Shibe and Michael LaCroix and Ronald Bitzer and Scott Edward Powell, who were killed serving their boys, I thought of people who meant so much to me: John Gates and Peyton Burford and Billy Malone and Dean Tait, and quite a number of others, and Rev. Frank Scott, my Methodist preacher who traveled with us on trips, and how much that meant to me and us as a community and how it shaped our lives in ways that are really unknowable.

I also remember the most exciting trip I ever took; it was with Troop 94 and we stayed at Fort A.P. Hill, Camp A.P. Hill, I believe it was called at the time. As our troop came to Washington, I do not think a single member of the troop had ever been to Washington. We were from rural Alabama. Our leaders decided it would be a big trip, and everybody planned it for a year or more, and we came up.

Our Scoutmaster, Mr. John Gates, was quite a leader, and Peyton Burford and the team of adults made it a highly successful trip. It was in the springtime, as I recall, and I do not think they had hot water at A.P. Hill. It was cold water, but they made you take a shower. We stayed in the old barracks that were vacant at the time. The Army was very helpful to us in making that facility available. We were able to use it as a base to come in to Washington and to tour the area during a trip that was very, very, very meaningful to me and to others.

I have on my mantlepiece in my office here in Washington, on this very day, a picture of that troop with all those kids—60 or more, I guess it was. A big chunk—maybe 12 or 14—at that time were Eagle Scouts, and more than that became Eagle Scouts.

It was a very, very important part of our lives. The key to it was good leadership. Our leaders, as those leaders in Alaska, gave untold hours to make those events meaningful. If you were not a good leader, you would not be able to maintain a troop, and you would not be able to bring them from Alaska all the way down to A.P. Hill in Virginia as part of a Jamboree.

There are 32,000 Scouts at that Jamboree, I understand, with over 3,000 leaders present. It is a very important and good thing that at this very moment we think about the thousands and thousands of leaders in the Scouting program all over America who have meant so much to young people and have shaped their lives in so many positive ways that would not have happened otherwise.

When you go to your Scout meeting—every Thursday night, as we did—you say that oath: On my honor, I will do my best to do my duty to God and my country, to obey the Scout laws, to help other people at all times, to keep myself physically strong, mentally awake, and morally straight.

Some find that offensive. I can't imagine why. What kind of objection could somebody have to ideals such as that. Every week you also recite the Scout laws. A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty—you don't hear that word much anymore—brave, clean and reverent. Those are good qualities. I don't see anything in those qualities that violates the Constitution or should in any way cause them to not be able to be supported by the military on their bases.

I am thankful that the majority leader, BILL FRIST, offered legislation to make crystal clear that Scouts will be able to participate actively on our military facilities as they have for so many years. Along with Senator REED—a graduate of West Point he is—I serve on the board of West Point with him. Senator REED chairs that board. I remember one of the briefings we had about the young people who graduate from West Point and go on to a military career. They said the two groups of graduates that had the highest reenlistment rate, the two groups that made the Army a career in the highest

percentage, were children of former military parents and Eagle Scouts.

There is some connection there, a connection in terms of duty and honor and commitment to country and to our creator in a way that is special. The Scouts and our military do share some ideals.

I thank the Chair for allowing me to share these remarks. I appreciate the Senator from Alaska so much for her tribute to these fine leaders who gave their lives in service to the young men under their supervision.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Texas.

Mr. CORNYN. Mr. President, I know we are currently debating the motion to proceed on S. 397, the Protection of Lawful Commerce in Arms Act. I am supportive of this legislation. I am happy to see 65 of my colleagues join me in invoking cloture today so we can reach resolution on the bill later this week. This is critical legislation for gun manufacturers, some of whom work in my State and employ hard-working Texans. It is important for our economy and for our national security. I plan to speak about this issue in greater detail later, but I wanted to take a few moments to address another urgent matter.

I ask unanimous consent to speak as in morning business, and that the time be discounted against the 30 hours.

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

IMMIGRATION REFORM

Mr. CORNYN. Mr. President, earlier today, Chairman SPECTER of the Senate Judiciary Committee convened a very important hearing addressing one of the most urgent matters confronting our Nation; that is, the need to fix our broken immigration system. I want to speak a few minutes about a proposal that I have made, along with my colleague from Arizona, Senator KYL, together representing two border States, ones that perhaps have the most experience with this issue because of our proximity to the border with Mexico.

In summary, this bill strengthens our border enforcement while it comprehensively reforms our immigration system. Unfortunately, the ongoing immigration debate has too often divided Americans of goodwill into two camps—those who are angry and frustrated by our failure to enforce the law, and those who are angry and frustrated that our immigration laws do not reflect reality. I have learned that those two groups, both of whom deeply care about America and are committed to building a system that works, share more in common than they or many other people actually realize. The only groups who benefit from the current system are human smugglers, unscrupulous employers, and others who profit at the expense of people who are trying to come into this country and work through illegal channels. Unfortunately, we know that those channels are being investigated and potentially exploited by those who want to come here to do us harm.

The reality is we need both stronger enforcement and reasonable reform of our immigration laws. It is my opinion that we, in the past, have not devoted the funds, the resources, or the manpower necessary to enforce our immigration laws or to protect our borders. No discussion of reform is possible without a clear commitment to—and a substantial escalation of—our efforts to enforce the law.

Over a series of months now, as chairman of the Immigration Subcommittee of the Senate Judiciary Committee, I have come to believe that increased enforcement alone cannot solve the problem. Any reform proposal must both serve our national security and our national economy. It must be capable of securing our country, but it must also be compatible with our growing economy.

As I mentioned a moment ago, as chairman of the Subcommittee on Immigration, I have worked closely with Senator KYL, who chairs the Terrorism Subcommittee of the Senate Judiciary Committee, to conduct a thorough review of our Nation's immigration laws. We have covered a wide variety of subjects, and we have had the opportunity to hear from a diverse group of experts. From an analysis of how the immigration system failed on 9/11, to the role of our neighboring countries in raising living standards in their home countries, our hearings have laid a foundation upon which we have developed a comprehensive solution, one that will not result in yet another immigration crisis some 10 or 20 years down the road.

We all know our immigration system has been broken for many years. First, the volume of illegal immigration continues to increase. According to the Pew Hispanic Center, there has been a dramatic increase in illegal immigration since 9/11, approximately 30% since 2000. That same organization estimates there are approximately 10.3 million illegal aliens in the United States currently.

Over the course of the 1990s, the number of illegal aliens increased by half a million a year, almost matching the number of visas that Congress has made available for legal immigrants. Last year alone, the Border Patrol detained roughly 1.1 million aliens who had come across the border. Professionals I have talked with on my travels to Texas and along the border, people whose experience and professionalism I trust, estimate that we are only detaining perhaps one out of every three or one out of every four people who are coming across our borders illegally.

Second, and for me the most alarming, is the information that suggests that terrorists and other criminals, including smugglers, are aware of the holes in our system. They may be—and I am confident that they are—looking at ways to exploit these weaknesses.

In recent visits in McAllen, TX, and Laredo, TX, I learned from people who have been long familiar with the movement of people back and forwards across our borders that the nature of illegal immigration has changed dramatically. The number of aliens from noncontiguous countries, sometimes called OTMs—in other words, people from countries other than Mexico—has doubled in the last year alone. Already this year the Department of Homeland Security has apprehended about 100,000 aliens across the southern border who are from noncontiguous countries.

While many of these individuals are coming from countries that you would expect, countries in Central and South America, many come from countries that have direct connections with terrorism. For example, we know that the Border Patrol has apprehended at least 400 aliens from countries with direct ties to terrorism.

Former Deputy Secretary of the Department of Homeland Security, Admiral James Loy, stated that ''entrenched human smuggling networks and corruption in areas beyond our boarders can be exploited by terrorist organizations.'' He went on to state that ''several al-Qaeda leaders believe operatives can pay their way into the country through Mexico and also believe that illegal entry is more advantageous than legal entry for operational security reasons.''

I believe the vast majority of the people who come to this country, even those who come outside of our laws, come here for understandable reasons. That is, people who have no hope and no opportunity where they live see this tremendous beacon of opportunity that America represents, and they want to come here to work and provide for their families.

At the same time, we have to acknowledge that our porous borders represent a national security vulnerability which can also be exploited by international terrorists. We know the current system benefits smugglers and all too frequently leads to the deaths of immigrants whose only crime was trying to find a better life for themselves and their families. Indeed, the greatest hazard to people who come to this country to find work is the fact that they have to, under current law, resort too often to an illegal entry into the country. They turn their lives over to people who care nothing about them and who are willing to leave them to die under the most extraordinarily bad circumstances. They must work for employers who can exploit them because they know they can't report labor law violations to the authorities. And they suffer criminal acts, such as domestic violence, and they must endure these acts because they believe they can't report the crime to law enforcement authorities or else they risk deportation.

I believe a reform proposal must encourage aliens to participate in the legal process, to live within the law.

Ultimately, after they have completed their time of work in this country, most will return home to their countries and to their families and to contribute to their societies in their homeland. And those who decide to live permanently must enter through the legal process.

When people who come to this country live outside of the law, they are vulnerable to exploitation and violence. They risk their lives, sometimes just to visit their families. I believe we must take away this black market from smugglers and others who exploit these vulnerable immigrants by addressing deficiencies in our current system.

Identifying problems, of course, is not the most difficult part of our jobs. If this were easy, someone would have already done it. It is not easy, but it merits our best efforts. The challenge that Senator KYL and I have assumed is to find a solution, to find workable results.

Last Wednesday, we introduced the Comprehensive Enforcement and Immigration Reform Act of 2005, a bill that we believe will restore America's faith in lawful immigration and will meet the needs of our country, both from a security perspective and from the standpoint of our growing economy which needs the work provided by many immigrants.

The bill is based upon certain principles. First, we have to reestablish the rule of law. Second, we have to enact laws that are capable of strong enforcement. That means they have to be realistic. Third, and most importantly, the law must be fair. If we address deficiencies in the current immigration process, then we must require that everyone who is here, even those who have come here just to provide for their families, must go through normal legal channels.

The good news is that our bill provides them a direction and a way to do that in a way that is not overly disruptive of their employment or of their family life. We believe it provides a path so that they can regain their status as legal temporary workers or, if eligible, as legal permanent residents.

The men and women who secure our borders at the ports of entry, and frequently at remote locations, should be commended for the job they do every day. But we have not provided them with the resources they need to be able to give them any reasonable chance of success.

Last week, the Senate approved the Department of Homeland Security appropriations bill, which, to the credit of the Senator from New Hampshire, Senator GREGG, included increases for border security and immigration enforcement.

Senator KYL and I have introduced a bill that we believe builds on that foundation. First of all, it authorizes 1,250 new Customs and border protection officers over the next 5 years. It calls on the Department of Homeland Security to hire 10,000 new Border Patrol agents over that same 5-year period. That same amount was authorized by Congress in the Intelligence Reform Act of 2004. It calls for the expansion of a process called expedited removal, which is a fair and effective system for quickly removing those who are ineligible to enter our country. Right now, we only use expedited removal in a few locations along the border. But our bill calls for the Department of Homeland Security to expand that process to all Border Patrol sectors, and we also provide for additional safeguards for aliens by requiring a supervisory official with the Government sign off on any removal.

Let me say a quick word about expedited removal. Right now, because of a lack of detention facilities, we have what is commonly called a ''catch and release'' program. For those we catch coming across the border illegally, a criminal background check is done to determine whether they are a threat to the American people; but if they don't appear on one of these watch lists or criminal background databases, they are released into the U.S. and asked to return for a hearing. It should not surprise any of us that this ''catch and release'' program results in more people not showing up than do show up, and those who show up for their hearing and are ordered removed then do not show up later when they are asked to report for their deportation process.

So that is the problem that we simply have to remedy. And I believe that expansion of the expedited removal process will deal with it in a way that is consistent with our laws and our values and our need for an effective border security program.

Our bill also addresses the release of aliens who come into the country from countries other than Mexico. It raises the minimum bond amounts for these aliens from $1,500 to $5,000. That means that fewer people from countries other than Mexico will be released, and those who are released will have a greater incentive to appear for their hearings.

Another important component of immigration reform is interior enforcement. We also need to deal with those who make it past the border and into the interior of our Nation. Tackling illegal immigration cannot be done in a piecemeal fashion. If we increase our ability to apprehend illegal aliens at the border, we must have a place to put them. Once detained, lawyers and judges are necessary to ensure that these people receive timely and fair hearings. Reform, therefore, must evaluate the whole enforcement process, and we must remove obstacles that appear anywhere in the process.

The goal is simple: If we apprehend someone who has no legal right to be in this country and is not entitled to any claim of asylum, then we must have an effective and efficient means to remove them from the U.S.

The bill Senator KYL and I have introduced will restore confidence in the system. First, it authorizes an additional 10,000 detention beds. Currently, there are only 23,000 detention beds. You will recall that a moment ago I said last year alone immigration control authorities apprehended 1.1 million people coming across our border illegally. Yet we only have 23,000 detention beds. That leads to what I described earlier as the ''catch and release'' program, which has proven to be completely unworkable.

The intelligence reform bill called for an additional 40,000 beds over the next few years. The bill that we have introduced increases the total amount to 50,000 detention beds. Still, that is not enough to detain everyone who comes across the border illegally. That is where expedited removal comes into play—a process to remove aliens quickly so that we reduce the need for bed space.

Our bill also increases penalties for alien smuggling, document fraud, and gang violence by aliens. We know, as I said a moment ago, that the nature of the people coming across our border, through our porous southern border, has changed. We are seeing many people who are violent gang members coming from places in Central America. We know that people are coming from Asia and from Europe, all around the world, and they are transiting through Mexico.

Alien smugglers are the people that make that happen. We have learned that they consider human beings to be just another commodity. They are just as likely to smuggle arms, drugs or anything else that will make them money. We need to make sure that we crack down on these alien smugglers that facilitate this intrusion into our country illegally and show that we are committed to tough punishment. Our bill accomplishes that.

We provide greater tools for the Department of Homeland Security and the Department of State to require that countries accept their own citizens back if they violate our immigration laws and they come into our country illegally.

Our bill also clarifies the authority of State and local officials to enforce immigration laws and authorizes the reimbursement of local and State officials for costs they incur in enforcing Federal immigration law.

Recently, I traveled to Victoria, TX, and met with a group of sheriffs down there. It so happened that the Minutemen who first organized in Arizona were organizing in Goliad, TX, and local law enforcement officials were concerned about having these citizen volunteers engage in what essentially is a law enforcement process. They said to me:

> If the Federal Government would provide us additional resources, we would be glad to help. We need some training, but we would be glad to be cross-designated, if that is important, to enforce both Federal immigration laws as well as State and local laws. We would be glad to detain them in our local jail

facilities pending their hearings, if necessary, but it is going to take a little help from the Federal Government.

I told them that I welcomed their offer to assist because I believe interior enforcement performed by many of these local law enforcement officials is an important part of this puzzle.

Our bill also creates a new senior-level position at the Department of Justice committed to immigration enforcement.

The third piece of the enforcement puzzle deals with the employment of undocumented immigrants. The Congressional Research Service estimates that out of the roughly 10 million people who have come into our country in violation of our laws, about 6 million are currently in the workforce. I believe that a vast majority of employers simply want an effective, user-friendly way to comply with the law. In other words, they want a way to determine whether the person who shows up in their place of business saying ''I would like to work for you'' is in fact legally authorized to work in the United States. We must ensure that we provide them an efficient, easy-to-use system that is airtight.

The example I often use is the following: if I show up at a convenience store and buy something, I can present my debit card or Visa or Master Card. In a matter of seconds, the clerk can swipe the card and it can authorize that purchase using modern technology. Why can we not use something similar—maybe with a few more bells and whistles—to allow employers to determine whether a person they want to hire is in fact eligible to work?

Since 1996, the Government has been testing an electronic verification system that provides instantaneous confirmation of an individual's authorization to work in the United States. Our experience with this program tells us that it can work but only if we give it sufficient resources. Our bill calls for an expansion of this electronic verification system and requires all employers to participate.

But while we make sure that there is a way for employers to check, we also have to make sure we crack down on employers who continue to operate in the black market of illegal labor. We have to crack down on the criminals who sell and who create fake identity documents and Social Security cards, which can also be exploited by terrorists.

Because our bill will create bright-line rules for employers, companies will be able to know whether they are in compliance or not. That is an obligation we owe them. If we are going to ask them to comply with the law, we have to give them a clear and simple way to do so. Our bill will further reduce identity theft and fraud by increasing the penalties for false claims to citizenship or for filing false information with the Social Security Administration. It requires Social Security cards to be more secure and it imposes standards for the issuance of birth certificates, so someone may not simply counterfeit these documents and make a false claim to citizenship.

Our bill also imposes certain obligations on countries who would like to make their citizens eligible to participate in this program. This would address another big challenge that we have, and that is the development gap between the United States and other countries.

We, along with those other countries, have an interest in ending the one-way flow of workers, which only results in the drain of highly motivated workers from those countries and further impedes their development. Our proposal would not only require the sending countries to assist with border security, but it will require them to cooperate with the United States in bridging the development gap between our country and theirs. Foreign Minister Derbez of Mexico has said that ''[T]he Mexican government has to be able to give Mexicans . . . the opportunity to generate the wealth that today they produce in other places.''

I could not agree more. Other countries need for their young, energetic risk-takers and hard workers to ultimately return home, to bring back to their countries the savings and skills they have acquired in the United States.

The bill we have introduced will require countries to enter into an agreement in which each country agrees to cooperate on border enforcement, to work to reduce gang violence and smuggling, to provide information on criminal aliens and terrorists, and to accept the return of nationals whom the United States has ordered removed.

Lastly, let me cover the temporary worker program. I mentioned a moment ago that out of the 10 million or so people who have come to this country illegally, about 6 million are in the workforce. I believe the fact is many of these immigrants have come here to provide for their families, something all of us as human beings can empathize with and understand. Who among us would not do anything in our power, risk life itself, to provide for our families, even if it happened to be outside of our laws?

We know many jobs being performed by immigrants in this country are jobs American citizens are reluctant to fill. I can only think about roofers working with hot asphalt in south Texas during August as the one example of that kind of job. Whether it is that or picking agricultural products, there are a lot of jobs, unfortunately, that Americans simply are reluctant to fill. We know we have a need for the work provided by many immigrants.

What we provide for in our bill is a temporary worker program. That is something I believe can best be characterized as a work-and-return program, not a work-and-stay program.

Some have said that is unrealistic, that you will never get people who come to the United States to agree to return. I guess we can all have opinions, but I have something even better than my opinion. The Pew Hispanic Center, a nonpartisan, impartial think-tank that looks at some of these matters, has done a survey of almost 5,000 Mexican immigrants who applied for matricula consular card, a Mexican identity card, at Mexican consulates in the United States. They asked migrants to fill out a 12-page survey, and one of the questions they answered was this: Would you agree to work in a temporary worker program in the United States if it was legally authorized, even though at the end of that time period you would have to return home to your country of origin?

By a ratio of 4 to 1, 71 percent to 17 percent, these immigrants said they would. I think that is solid evidence that people who are currently working in the shadows realize that they operate without the protection of our labor laws, without the protection of our criminal laws, and all too frequently they view law enforcement with suspicion rather than as an ally. They are looking for an opportunity to come out into the sunshine and to secure the protection our laws provide.

Our bill does create a new temporary worker category that allows workers who have a job offer from a U.S. employer to enter the country for a period of up to 2 years to work in the United States. Before the employer can hire the worker, the employer must advertise a position, offer it to any qualified American worker, and agree to pay at least minimum wage. The worker will go through background screening, will be issued secure biometric documentation, that they are who they say they are and are coming here to work and not for some other nefarious purpose.

We also create some financial incentives so that the worker, after the period of their temporary visa expires, will return home with the savings and skills they have acquired while working in the United States.

I talked moments ago about the Pew Hispanic survey. Circular migration is important both for the United States and for countries such as Mexico and the countries of Central America who are losing their young risk takers and the potential entrepreneurs, the people who are essential to the development of their own economy.

What economy could withstand the loss of the young men and women, the people who are going to be the engines of those economies and the prosperity of those countries? The public officials in Mexico and Central America with whom I talked do understand they need to have these people come back with the savings and skills they have acquired in the United States, so they can develop a way forward for their own people. In the end, it will benefit the United States because it will take a lot of pressure off illegal immigration if people can find hope and opportunity and good jobs in their own country.

Finally, let me address what perhaps is the hardest issue: the people who are here now who have come here outside of our laws.

According to the Pew Hispanic Center again, about a third of these individuals have been here for more than 10 years. So we do know that some have established roots in the United States, but we also know we have to find some way to transition this population into legal status. It must not, however, create a new path for people who have come here outside our laws. Our bill allows them to get back in line so they can return to the United States in a temporary worker program or, should they choose, as legal permanent residents.

But we do it in a way that is premised upon fundamental fairness. I believe there are many people in America who would be deeply offended if we said: if you come to this country through legal channels, that is nice, but we are going to allow people who have come here illegally to have a preference, and we are going to let them jump ahead of you in line.

Our bill provides a path for people to return to their country of origin and then, on an expedited basis, return to the United States. It will not be disruptive. To secure their participation, it may be necessary for them to know by the time they leave that they will be eligible to come back immediately once they secure the proper documentation. And we need to address processing delays so that they can obtain that proper documentation in a matter of days. If disruption is the only concern, then I see no reason why the model cannot minimize or eliminate that disruption.

This bill is a comprehensive bill, and I know my colleagues are as concerned as I am about finding a workable solution to this problem. I speak today to share with all of our colleagues, not just the people who sit on the Judiciary Committee and who participated in the hearing this morning, an overview of our proposal which I think has some real promise in achieving results.

I believe our constituents sent us here to represent them to solve problems, not to engage in partisan or otherwise divisive rhetoric designed to pick a fight. Our proposal is one idea about how we can find our way through this thicket, how we can thread the needle in a way that does not provide amnesty. I think our colleagues across the Rotunda in the House of Representatives will be open to discussing our proposal, for it is consistent with their principles of reform.

I thank the Chair. I thank the indulgence of my colleagues. I yield the remainder of my hour to the Senator from Alabama.

I yield the floor.

The PRESIDING OFFICER. The Senator has that right.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Mr. President, I am glad I had an opportunity to be presiding this afternoon and to hear Senator CORNYN speak. I appreciate his assuming the Chair for a moment so I could step down here and compliment him and Senator KYL for their work on this legislation.

They have introduced a comprehensive bill to improve our immigration system, focusing, as the Presiding Officer said in his remarks, on border security, on interior security, on employment accountability, and on a legal status for temporary workers.

I am glad they have taken the time to work on this program. We have talked about it many times over the last several months, and I know the hours they spent on this. I have not had an opportunity yet to see all the specifics of the bill, but I know the principles they are working on and I heard the speech. I believe in what they are trying to do, and I think it is terribly important that we as an entire Senate take this issue up and begin to deal with it.

We need to stop thumbing our nose at the rule of law and decide which persons from other countries should be allowed to work and study and live in our country and create a legal status for them, and then enforce the law. We must do that. It is hypocritical for us to go around the world preaching about the rule of law to other countries when 10 million people or so are living illegally in this country.

Our failure to solve the problem also unloads huge health and education costs on State and local governments and puts the immigrant population at risk.

So the Cornyn-Kyl bill stands for the rule of law by enforcing our borders and creating a solid temporary worker program so that we know who is here, and that they are here within a clear legal framework.

The people of this country expect us to deal with this issue. This is a difficult issue, but it is what we are sent here for: We are sent here to deal with the major issues facing our country, and I can think of no more important issue for us to deal with than upholding the rule of law by securing our borders, protecting our interior, and making sure that people we welcome to live here and work here are here legally, and that we then enforce the law.

But, as important as the Cornyn-Kyl bill is, we can do more. This bill enforces the borders and welcomes temporary workers. But we also need to do a couple of other things. One of the other things we need to do is to welcome foreign students, not just foreign workers. A second thing we need to do, with a half million to a million prospective citizens who come to our country legally every year, is to help them become Americans. We need to help them to become a part of this country whose most important accomplishment is admitting and welcoming people from all over the word, of every background, and helping those new citizens become something new—Americans who are proud of where they came from but prouder to say they are all Americans.

Foreign students who come to the United States to study at our colleges and universities are a boon not only to our educational system, but also to our economy and to our foreign policy. But after September 11, in an effort to increase our security—which is appropriate—we have been making it harder for international students to come to the United States. Earlier this year, the administration removed one important hurdle by extending the Visa Mantis process, which clears foreign students and researchers who are studying advanced sciences.

The Presiding Officer, Senator LUGAR, Senator COLEMAN, and I, and others have spent some time over the last year working with the administration on the question of foreign students coming to the United States. There were 570,000 foreign students who attended classes in the United States last year. Sixty percent of the postdoctoral students in the United States last year were foreign students. One-half of the students in our graduate programs in computer sciences and in engineering are foreign students. Many of these students are here working to help increase our standard of living. Many will return to their home countries after 4 years with a fresh perspective on our country and on what their own country could become.

When I visited the country of Georgia last March, which recently became a pro-Western democracy, I was reminded that most of the top officials there had been students in the United States of America. They were doing things there we could have never encouraged them to do. They were doing them because they came here and learned what it meant to be an American and were using those principles in their own country of Georgia.

Many other foreign students will stay here and, thanks to their studies, they will invent new products or start new businesses, and that creates jobs here at home. So we need to welcome these students when they are legally here in the United States.

Finally, we also need to do more to welcome and support legal residents who are working to become American citizens. Each year we welcome about 1 million new permanent legal residents, many of whom go on to become citizens of the United States. To become an American is a significant accomplishment. First, you must live in the United States for 5 years. Next, you must speak some English. Next, you

must learn about our history and government. Next, you must be of good character. Next, you must swear an oath to renounce the old government from where you came and swear allegiance to the United States of America and its Constitution. That is no small thing.

Between 500,000 and 1 million new citizens each year come in and complete that process and take that oath.

Earlier this year, Senator SCHUMER and I introduced a bill to codify that oath of allegiance that new citizens swear to when they become citizens. It is hard to believe that while the Pledge of Allegiance, the National Anthem, and the American Flag are all prescribed by law, we have been allowing the oath of allegiance, a binding pledge for new citizens, to be determined merely by Federal regulators. We can do more to welcome these new citizens.

In the near future, in September, I hope to introduce legislation that perhaps could become part of a comprehensive immigration bill. This legislation would provide new incentives and support for legal immigrants to learn English, our common language, and to learn about our Nation's history and government and values. I hope that effort to welcome new legal immigrants and to help them become a part of our American community will become a part of the Senate's overall approach to immigration reform.

Our country is unique in the world. We are not defined by common ethnic background or origin. We and our ancestors came from every corner of the world to be a part of this country because it was founded on something much bigger, much grander than ethnic heritage or a tie to the land. In the Declaration of Independence, our Founders wrote:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

This is what binds us together as Americans: a belief in our common values, values such as equal opportunity, the rule of law, and liberty. That is why we welcome immigrants who swear allegiance to our country and to those values as new citizens. That is why our Nation of immigrants has always succeeded and can succeed in the future.

If we are to continue to succeed, we must pass along these values that comprise our American identity—pass them on to posterity—both to our children and to those new citizens who come to our shores from distant lands.

In the coming months, this Senate will have a chance to reform our Nation's immigration policy. The Cornyn-Kyl legislation is a tremendously important first step toward a comprehensive immigration bill. It is one whose principles I support. I look forward to working with its authors as it moves through the Senate. I hope as we write this comprehensive immigration legislation, though, we also remember to welcome foreign students who add so much to our economy and spread our values to the world, and that we remember to welcome legal immigrants who wish to join the American family and help them learn our common language, learn our values, and become American citizens.

I hope the legislation that I will offer in September can help us along that track.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I join with Senator ALEXANDER in complimenting you and Senator KYL for the legislation that you have just described for us. The Senator from Texas, as I know, has taken the lead on this very important and complex subject. I salute you for it.

Some would say it is a thankless task, it can't be done, and will make nobody happy. But I believe you have the right principles. If the right principles are applied with the right prescriptive language, we can make great progress in this area, and I salute you for it.

Frequently have I quoted Senator ALEXANDER in the phrase he has used: No child should grow up in America who doesn't know what it means to be an American.

I think that is good for immigrants, too, as the Senator just said so eloquently. I salute him.

I also thank the Senator from Texas for considering a critical component of this legislation he has proposed, and that is the part that deals with State and local law enforcement. I have just written a Law Review article for Stanford University to deal with that area of the law. Suffice it to say, local law enforcement does have complete authority to detain people who are violating the criminal laws of the United States. But that has been confused. Clearing this up more, setting up a mechanism so that they can participate if they choose, would be helpful to enforcing the law. That is so because we have 700,000 State and local law enforcement officers at every street corner and town in America. We have only 2,000 INS immigration officers inside the border—not those on the Border Patrol and on the border, but those inside the border. So obviously we are not very serious about ultimately reaching a lawful system if we exclude them.

I thank the Senator from Texas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. THUNE. Mr. President, I ask unanimous consent to proceed as if in morning business and I be allowed to speak for up to 20 minutes.

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

BRAC

Mr. THUNE. Mr. President, last week I offered an amendment to suspend the 45-day congressional review of the President's final BRAC recommendations pending completion of several vital studies pertaining to long-range security needs in the implementation of BRAC and redeployment of many units presently deployed in Iraq and Afghanistan back to bases in the United States.

I also introduced a similar amendment yesterday that would allow Congress discretion to remove individual bases from the closure list based upon the findings of these studies and results of the redeployments.

There are two separate options, one of which I hope comes to the Senate for a vote. I underscore the assertions I made last week. The underlying purpose of the Base Realignment and Closure Commission, or BRAC, is not only good for our Armed Forces, it is good for American taxpayers. We all want to eliminate waste and reduce redundancy in the Government, but when Congress modified the BRAC law in December of 2001 to make way for the 2005 round of base closings, it failed to envision this country involved in a protracted war involving stretched manpower resources and the burden of large overseas rotational deployments of troops and equipment. This is not the time to begin a new round of domestic base closures and massive relocations of manpower and equipment.

I am aware, hearing that coming from a Member of Congress with a major base on the chopping block, that assertion may sound like another pitch to defend a home State parochial interest. Regardless of the outcome for my base, I am very concerned about how this BRAC round will affect our Nation's overall military posture, not only in South Dakota but around the country and around the world. This BRAC, in particular, has serious implications both in the short term, because we are engaged in a war, and in the longer term because of the need to preserve critical infrastructure as we enter a very uncertain future.

In essence, we cannot lose sight of the imperative of, in addition to saving money, perhaps the most critical goal of BRAC should be to maximize our Nation's warfighting capability. If we fail to follow that fundamental principle, the BRAC process will fail us and ultimately put this country at risk.

This BRAC, in particular, not only has serious implications, it raises serious questions, especially in terms of its timing. In the short term, our war in Iraq and Afghanistan has put great logistical strain on our Active military

and Reserve Forces in terms of both manpower and resources. The rotational deployment of personnel and assets to overseas areas of operation has disrupted normal training and maintenance cycles and left military families with uncertainty.

The drain of resources also raised questions as to our ability to respond to additional flashpoints if a crisis should arise elsewhere in the world. Yes, the military is performing its ongoing missions remarkably well under the circumstances, but is this the time to add to those commitments by initiating a massive reshuffle of personnel, equipment, and missions between bases all over the country?

In the long term, these recommendations may pose an even more serious risk to our security. As the DOD itself points out in the National Defense Strategy, published earlier this year:

> Particularly troublesome is the nexus of transnational terrorists, proliferation and problem states that possess or seek WMD, increasing the risk of WMD attack against the United States.

We simply do not know what dangers may emerge from military powers such as North Korea, China, Iran, or various rogue states in the next 20 years or more. The threat of terrorism directed against targets in this country should be indisputable after September 11.

There have been four prior BRAC rounds in the last 20 years. I believe it is readily apparent that the Pentagon's 2005 BRAC recommendations go beyond reducing excess infrastructure and would, instead, reduce critical infrastructure needed to fight the wars of the 21st century.

Prior rounds have been successful in pulling much of the low-hanging fruit and in reducing waste.

This round begins to cut into the muscle. I want to show you a chart from 1958, for example. You see there was a large number of Air Force bases in the northern region of this country. Air Force bases were dotted all across the northern tier of the United States: Up in the Northeast, North Central Plains, areas such as that—1, 2, 3, 4, 5, 6, 7, 8, 9, 10—a dozen Air Force bases or more in the northern tier of this country.

Today, take a look at how that has changed. One can plainly see how dramatically that number has been reduced and will be further reduced in the 2005 BRAC round.

You saw the previous chart from 1958. All those bases have been wiped out. There are three left in the northern tier of the country. This BRAC round would eliminate Ellsworth Air Force Base in South Dakota and make Grand Forks Air Force Base essentially a ''warm'' base, hopeful of an emerging mission but for all intents and purposes removes the principal mission that has been housed there for some time and leaves literally only one major Air Force base in the northern tier of this country.

Of course, one of the flaws I see in this BRAC is not only the stripping of our air and naval bases in the northern tier, but I seriously question what I believe to be one of the Pentagon's most apparent errors in judgment; and that is to consolidate high-value assets in fewer locations.

In light of the potential threats we face, I wonder whether we really want to discard a tenet of military doctrine that we have lived by for the past 60 years. It is called ''strategic redundancy.'' Put simply, it is the doctrine of dispersing high-value assets at different locations in order to prevent their complete destruction in a single attack.

If you look at the statement here, this is from the Air Force doctrine document, dated November 9, of 2004. It says:

> . . . it is easier and more effective to destroy the enemy's aerial power by destroying his nests and eggs on the ground than to hunt his flying birds in the air.

If you look at what the potential threats are we face going forward, and what it means to this Nation to have strategic redundancy, to have those assets dispersed in several locations around the country, and if you look at how that fits in with the Defense Department's own military strategy, you have to ask a question about some of the decisions that have been made in this particular BRAC round.

Let's look at what it says right here. Again, this is the Department of Defense, in its March 2005 National Defense Strategy, when it stated its goal of ''developing greater flexibility to contend with uncertainty by emphasizing agility and by not overly concentrating military forces in a few locations.''

I want to put up another chart. It has to do with principles and imperatives. Even in the Pentagon's deliberative briefing materials that outline those ''principles and imperatives'' of this BRAC round, it stated that the Department needed secure installations optimally located, that support power projection, sustain the capability to mobilize and ''that ensure strategic redundancy.''

Now, unfortunately, Secretary Rumsfeld's recent BRAC recommendations to consolidate some of the Nation's most valuable U.S. air and naval platforms at single installations would apparently abandon that basic tenet in favor of cutting costs.

Hopefully, we have not forgotten the shortsightedness we once had as a Nation before Pearl Harbor. Now, folks might dismiss such lapses as distant events from another time and another place that are not applicable to today's threats. See on this chart a scene from Pearl Harbor that took place 60-some years ago. Even in the DOD's Strategy for Homeland Defense and Civil Support, released a few weeks ago—and, incidentally, this is a partial completion of one of the amendment's conditions—it notes that ''a significant element of mission assurance is continuity of operations—maintaining the ability to carry out DOD mission essential functions in the event of a national emergency or terrorist attack.''

It also goes on to state that ''an attack on DOD facilities could directly affect the Department's ability to project power overseas.'' One well-positioned crater in a runway could ground the entire fleet of this Nation's B–1 bombers during an emergency, if they are all stationed at one location. It should always come back to the intuitive logic possessed by most Americans, and that is that we simply cannot allow analytical cost models to trump sound and proven security precautions.

Strategic redundancy, obviously, still has a place in our planning, as demonstrated in the Pentagon's own planning documents. Why was it not reflected in its BRAC recommendations?

Additionally, the risk of natural disasters is a constant reminder that we should not put all our assets in a single location. This chart shows a tornado that passed within 1,000 feet of the F–16s and B–1 bombers stationed at McConnell Air Force Base back in 1991. Tornadoes have wreaked havoc on Air Force bases in the past. The one I am going to show you in a moment is Carswell Air Force Base in Texas. We simply cannot afford to risk our Nation's security on the whims of a single deadly tornado that could destroy or damage an entire fleet of aircraft.

Finally, the GAO has also questioned the potential for cost savings estimated by the DOD, calling into question whether we want to risk our national security for questionable cost savings. want to read to you what it says from the GAO study:

> There are clear limitations associated with DOD's projection of nearly $50 billion in savings over a 20–year period. Much of the projected net annual recurring savings (47 percent) is associated with eliminating jobs currently held by military personnel. However, rather than reducing end-strength levels, DOD indicates the positions are expected to be reassigned to other areas.

As this implies, much of these cost savings are apparently illusory. To quote the distinguished chairman of the Armed Services Committee, Senator WARNER, during his testimony before the BRAC Commission, he said:

> Since 32 percent of BRAC savings come from personnel reductions, this calls into question the entire savings estimate—particularly since we are not reducing any meaningful force structure.

I want to show another GAO chart. The GAO questions, one, the lengthy payback periods; inconsistencies in how DOD estimated costs for BRAC actions involving military construction projects; and uncertainties in estimating the total costs to the Government to implement.

GAO estimates upfront costs of an estimated $24 billion to implement this round of BRAC. To again quote the distinguished chairman of the Armed Services Committee before the BRAC Commission, he said this:

> My observations are consistent with the testimony of witnesses and Congressional

delegations around the country to date who have presented the Commission firm evidence supporting similar observations of questionable data and an internal collapse of the quantitative analytical foundation in lieu of other guidance provided by senior defense officials. These observations are also consistent with issues raised by the Government Accountability Office in its July I, 2005, report to the Commission and to Congress.

Last week, when I was offering my amendment, the distinguished chairman, Senator WARNER, made what I believe was a reasonable argument, that by suspending the 45–day review period until these conditions are met would cause anxiety among some communities by not knowing their ultimate fate or delaying the process of redeveloping the base to civilian use.

Now, this may be the case for some communities, but I believe most communities desperately want to retain their bases because they are the lifeblood of their local economy. They would do anything—exhaust every possibility—to have these bases remain open. If anything, knowing that this Congress has done all it could to have all the answers before making such a decision I think is tremendously important to these communities.

I also challenge the perception made by many that these communities will have many opportunities to develop these closed bases and quickly restore their economy. This will probably not be the case in rural areas around bases like Ellsworth Air Force Base and Cannon Air Force Base.

Some communities may actually prosper from a base closing, where land for business or home development comes at a high premium and sells for thousands of dollars per square foot. Bases like Oceana, in Virginia, will have no difficulty putting the land to profitable use.

As you can see in this picture, Oceana is surrounded by a sea of development and prosperity. The base is up here. The entire area around it is completely developed. The land is worth lots of money.

But other bases, like Ellsworth, in my State, as you can see in this aerial photograph, are surrounded by miles and miles and miles of empty rangeland and have scant hopes of a booming development taking hold of the former base. There is little doubt that the nearby community of Rapid City would have no problems with the delay if it means ensuring the right decision has truly been made.

There are too many unanswered questions regarding our Nation's long-term security needs and the circumstances in which our military may have to operate in the future to make irreversible decisions for which we could pay a terrible price later. We will not be able to easily replace or position these installations and units once this BRAC is fully implemented and we discover we have made a colossal mistake.

Let's take a breath and slow down. My two amendments, offered as options, merely allow this Nation to have the full benefit of all the information we need before moving ahead to implement BRAC. The risk is too great.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if you could tell me the parliamentary state of affairs.

The PRESIDING OFFICER. The Senate is postcloture on the motion to proceed to S. 397.

Mr. HATCH. Thank you, Mr. President. I rise in strong support of S. 397, the gun liability bill.

Now, this legislation is a necessary response to the growing problem of junk lawsuits filed, no doubt, in part with the intention of driving the firearms industry out of business.

These ill-advised suits attempt to hold manufacturers and dealers liable for the criminal acts of third parties, actions totally beyond the control of the manufacturer. These types of lawsuits continue to be filed in multiple States, seeking a vast array of remedies concerning the marketing of guns and alleged design flaws. And they continue to be flawed.

The White House, in its Statement of Administration Policy, summarized the current problem well. This is what they said:

> The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, sets a poor precedent for other lawful industries, will cause a loss of jobs, and burdens interstate and foreign commerce.

That is a heck of a good statement because that is exactly what will happen if we allow these types of suits to continue.

This bill does nothing more than prohibit—with five exceptions—lawsuits against manufacturers or sellers of guns and ammunition for damages ''resulting from the criminal or unlawful misuse'' of nondefective guns and ammunition.

Now, let me repeat that: ''resulting from the criminal or unlawful misuse'' of nondefective guns and ammunition.

This bill is not a license for the gun industry to act irresponsibly. If a manufacturer or seller does not operate entirely within Federal or State law, it is not entitled to the protection of this legislation.

Listen to a few comments from one judge who dismissed some of these suits. In Ohio, a judge dismissed a gun liability lawsuit, and the court of appeals affirmed this decision saying:

> to do otherwise would open a Pandora's box. For example, the city could sue manufacturers of matches for arson, or automobile manufacturers for traffic accidents, or breweries for drunk driving.

Now, there is no reason the gunmakers should have to continue to defend these types of meritless lawsuits. We must protect against the potential harm to interstate commerce here. The gun industry has already had to bear over $200 million in defense costs thus far. That is ridiculous. It is immoral. It is wrong.

This legislation is not without precedent. In the 106th Congress, legislation was introduced to address the possibility of junk lawsuits related to the Y2K computer problems. This bill sought to ''lessen the burdens on interstate commerce by discouraging insubstantial lawsuits.'' It sought to do so by preempting State law to provide a uniform standard for such suits. This bill merely seeks the same type of remedy using the same reasoning.

In the past, some have thrown out red herrings arguing against this bill and suggesting that negligent entrustment will be immunized. This is pure bunk. It is untrue. That argument doesn't deserve to see the light of day. Those who make it ought to be ashamed of themselves. The bill provides an explicit exception for anyone who supplies a gun to someone they reasonably should have known was likely to use that gun in a way that would injure another person.

Let me state that again. The bill provides an explicit exception for anyone who supplies a gun to someone they reasonably should have known was likely to use the gun in a way that would injure another person. The bottom line is that this is a reasonable measure to prevent a growing abuse of our civil justice system. We have had far too many abuses of that system. This is a chance for Members of this body to stand up and do something about it.

If we allow these kinds of suits to go forward with guns, then what is next? Holding manufacturers of knives responsible for stabbings? Holding manufacturers of baseball bats liable for beatings? We simply should not force a lawful manufacturer or seller to be responsible for criminal and unlawful misuse of its products by others.

Individuals who misuse lawful products should be held responsible, but not those who make lawful products.

We have had through the years a desire by some to put gun controls on all kinds of guns, even though the second amendment gives us the freedom to keep and carry arms. To be honest with you, it is an explicit provision of the Constitution. We should not allow any misuse of guns, but we should not allow a change in the Constitution by mere statute that takes away our right to keep and bear arms. That is a God-given right, in my book, especially in some of the areas of the country where people have to defend themselves. In my area of the country, we had to defend ourselves in tremendous ways throughout the whole history of the West.

To make a long story short, we should not be abusing honest, decent, law-abiding people who want to collect, shoot, target practice, hunt, and own guns. We have been through it before.

It is time to stand up and realize that the people who misuse guns are criminals. Those criminals should be prosecuted. But to make gun manufacturers responsible for the irresponsible acts of others, over which the gun manufacturers had no control, is just plain wrong.

I hope we can pass this bill. It would set a good standard to stop the frivolous and abusive lawsuits that are occurring in this country in so many ways, but especially in this particular way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask to be recognized to speak on the pending business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, it is amazing how we have reached this point in Senate business today. We started this day debating the Department of Defense authorization bill. It is hard to imagine a more important bill for this Senate to consider and conclude this week. We are going to be gone for 4 or 5 weeks. The idea was, we would take the important amendments and decisions to be made about our military, our men and women in uniform, their benefits, their equipment, and make the decision this week before we went home. Then a decision was made by the Republican leadership to interrupt the debate on the Department of Defense authorization bill and move to the pending bill.

What is this bill? It is a bill that is characterized as ''the gun industry immunity bill.'' What does it mean? It means that those who are pushing for this bill want to carve out one industry in America and say that the people who run the businesses that make the firearms and sell the firearms cannot be held personally responsible for their wrongdoing. That's right. If you and I get in an automobile going home from work, are negligent in our driving the car in any respect, and there is an accident, we are held personally responsible. If the business down the street from where you live sells a product that is defective or dangerous, the person who owns the business, the person who made the product can be held personally responsible. It is really part of life that we are responsible for our wrongdoing. The legal system of America says even people who are powerless have their day in court to hold accountable the businesses and people who have been guilty of wrongdoing.

Now comes to the floor the proposal by the Republican leadership that we take one industry in America and say that it cannot be held personally responsible for its wrongdoing. Why in the world would we be doing this? How powerful must the group be that pushes through the legislation that says they will be treated as an exception in the whole American body of law? You know the group. They are well known. The gun lobby, the National Rifle Association. They are so powerful that they pushed the Senate away from the Department of Defense authorization bill in the middle of a war. Think about that. How could you move the Senate from considering a bill to help the men and women in uniform in the middle of a war? The only way you can do it is if you are a powerful lobby that snaps and Senators jump. That is what this is all about.

Before we adjourn at the end of the week, the Republican leadership wants to make certain that if we can't keep our word to our troops in the field, we keep our word to the lobbyists downtown for the gun lobby. We carve out a piece of American law and say they cannot be held personally responsible. Their businesses can't be held responsible for wrongdoing.

Is it because there is some huge problem in the gun industry? Are there businesses that sell guns that are about to go bankrupt because of all the lawsuits that are being filed against them? Not at all. Listen to this. On June 29, 2005, the huge American gunmaker Smith & Wesson said in a press release:

> We expect net product sales for fiscal year 2005 to be approximately 124 million dollars, a 5 percent increase over the $117.9 million reported for the last fiscal year. Firearms sales for the next fiscal year are expected to increase by approximately 11 percent over the last year.

Then March of 2005, Smith & Wesson also said:

> In the nine months ended January 31, 2005, we incurred $4,535 in legal defense costs, net of amounts received from insurance carriers relative to product liability and municipal litigation.

Four thousand five hundred thirty-five dollars? Does that sound like a crisis in the gun industry that would cause us to move away from considering the Department of Defense authorization bill?

Listen to this from another gunmaker. This is a filing with the Securities and Exchange Commission, March 11, 2005, from the gunmaker Sturm, Ruger:

> It is not probable and is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the company.

These companies are doing very well. They are making a lot of money. They are selling a lot of guns. They aren't being sued. It isn't costing them a heck of a lot of money when they are sued. Why are we doing it? Why would we give this unprecedented sweeping immunity to any industry in America, let alone an industry that makes firearms?

This bill closes the courthouse doors to victims with legitimate lawsuits. It says: If you are a victim of a gun dealer or a gun manufacturer who sold a gun in commerce, where they might have known or should have known that it was going to be used for bad purposes, you can't go to the courthouse. The door is closed. Sorry. That is the way it is going to be. The gun industry is going to be treated like royalty. They are above the law.

During the debate on this bill during the last Congress, the supporters said a lot of cases about victims were frivolous. We were told all these companies were on the verge of bankruptcy. None of that turned out to be true. Two high-profile cases settled. These settlements would not have occurred had this bill been enacted last year. One of them, Bull's Eye Shooter Supply, was the dealer and Bushmaster was the assault weapon maker in the DC sniper case. I remember that case. These crazy snipers ran around town, killing people willy-nilly, innocent victims. When it was all over, the company that made the sniper rifle, the assault weapon, ended up settling with the families, paying over $2.5 million because of their wrongdoing. And Bushmaster agreed to inform its dealers of safer sales practices to prevent other criminals from obtaining guns.

It was only right that the victims had their day in court. It was only right that a jury of fellow citizens decided their fate. It was only right that this company was held accountable for sales practices that ended up endangering the lives of innocent people. Had this bill now on the floor been passed, there would have been no day in court for the families who were killed by these DC snipers.

Is that justice, fairness, or is that what we should be doing on the floor of the Senate instead of working to help the men and women in uniform who are engaged in a war across the ocean, risking their lives?

Listen to this case. Will's Jewelry and Loan, a West Virginia pawn shop, settled with Police Officers McGuire and Lemongello in June 2004 for $1 million and agreed to change its practices to prevent sales to underground traffickers, which includes instituting a policy of avoiding large-volume sales. Will's had sold the gun used to shoot the two police officers to a straw purchaser.

It is not only the innocent victims filing who were shot in DC who would be stopped from suing. This bill will stop policemen and their families from suing those who were selling guns, putting them into commerce and endangering the lives of the men and women in uniform who get up every morning and try to protect us in our communities.

Not surprisingly, law enforcement officials in our Nation oppose this bill, such as the International Brotherhood of Police Officers and the Major Cities Chiefs Association, as well as police officers from around the country have signed a letter begging Congress: Don't

pass this bill. It will make America more dangerous. It will endanger the lives of policemen.

Newspapers in 19 different States have editorialized against this bill. What is troubling to me is that we could go from a bill designed to help protect America by helping our men and women in uniform to a bill that makes America less safe, a bill that allows companies to make guns, which are junk, Saturday-night specials, destined to be used in a holdup or a killing by some crazed drug addict. We can protect those companies, but we cannot protect our men and women in uniform, whether they are serving in our military or serving as our policemen. What a dramatic distortion of priorities.

The Senate should be embarrassed that we have done this. This is a week that the Republican leadership will never be able to explain—that they would leave that bill in the midst of a war in order to do this grand favor for the gun lobby, the National Rifle Association. It is not fair. It is not fair that all we do around here is carve out special treatment and special exceptions for a lot of people who, frankly, don't need them. We started off with the bankruptcy bill so credit card companies could make sure that those who end up in bankruptcy carry the credit card debt to the grave. We passed the class action bill so individuals filing environmental class actions would have a difficult time going to court. We have a bill waiting in the wings that says to 10,000 asbestos victims a year, you victims who never dreamed you would be dying from exposure to asbestos are going to be limited when you go to court too. There are bills pending dealing with the victims of medical malpractice.

And now comes this bill—the absolute icing on the cake—that we would give to the gun lobby immunity from their own wrongdoing, that when they make guns that end up killing people, that should not have been made, without the appropriate warnings, the appropriate safety devices, when they sell guns by the carload to people who were clearly destined to sell them on the street, to be used by drug gangs, they cannot be held accountable.

There is no personal responsibility under this law. That is not American. That is not what the system of justice is all about. It certainly doesn't speak to the fairness that we believe is essential to the American system of justice. When you think of all the things we could be doing, instead of finding another special interest group to give their lobbyists such good news that we passed their big bill—we could be passing a bill that says we are going to stop giving tax credit to companies that run jobs overseas. We could have done that this week. No, we didn't have time. We had to help this special interest group, the NRA. They could have been changing the Medicare drug prescription bill so they would be able to bargain for lower prices for seniors. No, that is not on the priority list of the Republican leadership. We could have been making certain that we don't privatize Social Security, and instead make it last. That is not a high priority for the Republican leadership. The gun lobby is the highest priority this week—higher than our service men and women. They could have protected the pensions and retirements of Americans who are scared they won't have anything to rely on. No time for that. No time this year to deal with it. We could have been dealing with portability of health insurance and the availability of health insurance for small businesses. No, we have to deal with helping the NRA. We could have been helping people with college loans, figuring out new ways that families can finance the education of their children. Sorry, if you don't have a big lobby with a lot of power such as the gun lobby, we cannot do that. We could have been talking about the outsourcing of medical and financial records, destroying the privacy of individuals and families. No way. We could have talked about credit card companies, giving more disclosures on credit cards such as when they increase your interest rate. No, we don't have time. We have to protect the gun makers and gun sellers from being held personally responsible in court. We could have increased our energy availability, it could have been part of our energy bill. You can hardly find it.

The list goes on. When you talk about the values of the Republican leadership in the Senate, you know the values today. To think that the Republican leadership would move away from the Department of Defense bill for our troops to a special interest bill for the gun lobby, so that they are not held accountable for selling Saturday-night specials that kill policemen and innocent people. That is the priority of the Republican leadership. It is not the priority of the American people.

I look forward to voting against this bill. I hope a majority of my colleagues will join me in that effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, a majority of the Senate is going to vote for this bill. We have 61 cosponsors. It ought to have already been passed a long time ago. We will be pleased to get this bill done. It is something that is needed.

Mr. President, there will be more opportunity tomorrow. What happened today was that I voted to invoke cloture on the Defense bill so we can complete the Defense bill, and that was not passed by the votes on the other side. So when cloture was not invoked, we went to this bill, which has strong bipartisan support and which will be passed.

However, some on the other side did choose to filibuster the motion to proceed, as they have a right to do. That is what we are doing today. Then we will have a filibuster of the bill and we will have cloture, which I believe will be invoked. Certainly the votes appear to be there for it. I think we will get this bill done. There are other things we need to do this week that can still be done.

Mr. President, does Senator REED have any comments?

Mr. REED. Yes. Mr. President, we have had a long discussion today about the legislation. I think some of the points the Senator from Illinois made are very pertinent.

First, there is the erroneous presumption that people who would be sued would be sued because of the actions of others, when in fact the negligent suits lie in showing that first an individual had a duty to someone else—a victim—and that duty was not fulfilled. Essentially, that is the essence of negligence. If you cannot show that, you cannot get into court. This is not about somebody being punished or imposed upon for the actions of others. It goes right to the actions of the individuals—the seller, manufacturer or, in this case, trade associations.

There is a perception also, I think, that has been given that the legislation as drafted actually provides exceptions that will cover the meritorious suits, the ones that should be before the court and eliminate the frivolous suits. In fact, that is not the case. As Senator DURBIN pointed out in the situation with respect to the Washington, DC snipers, there a gun dealer in Washington State was grossly negligent. He had 230 unaccounted for weapons and they should have been accounted for. He allowed a teenage boy to walk in and pick up a sniper rifle off the counter and walk out and didn't know it was missing until it was discovered to be the weapon of the assassins here in Washington, DC. That suit would have been barred by this legislation if it had passed. The two police officers—Lemongello and his partner—responded to a call and they were in a shootout. They were seriously hurt, both of them. It turns out that the criminal firing that gun got it from a gun trafficker who walked into a store, a gun dealership, with another woman as a straw purchaser and acquired 12 weapons for cash and walked out the door. In fact, they were so obvious that the gun dealer called ATF and said he sold them the weapons, but watch out for them, which is negligent to me. Both cases were settled. Those cases would be thrown out.

The lives of all of the families in Washington, DC, have already been totally changed because of the loss of their loved ones. Conrad Johnson was a bus driver, waiting to go on his bus run, and he was shot, leaving a wife and children. They would have been out of luck because they could not have brought a suit like this. And there were others. We all lived in fear ourselves. We drove around here looking over our shoulders wondering

whether the assassins were out here in Washington, DC. One woman who was an employee of the FBI and was walking in the parking lot of Home Depot in suburban Virginia was shot. Those families, those victims, could not have come to the court of justice if this bill passed.

There are other suits that are pending today. There is a case in Massachusetts, where a young man, Danny Guzman, an innocent bystander, was shot and killed in front of a nightclub in Worcester. Six days later, police recovered a 9 mm Kahr Arms handgun without a serial number behind an apartment building, near where Mr. Guzman was shot. In fact, I am told a 4-year-old child discovered the weapon first. Ballistic tests determined that the gun was the one used to kill Danny Guzman.

This gun was one of about 50 guns that disappeared from Kahr Arms' manufacturing plant. Some of the guns were removed from the plant by employees that Kahr Arms hired despite criminal records and histories of drug addiction. The case is being pursued now. The issue is not what Mr. Guzman did. It is what this company failed to do. They failed to have background checks on employees who handled weapons. They failed to have security devices that would monitor if these weapons would be taken out of Kahr Arms. I am told, interestingly enough, Kahr Arms is owned by a holding company for the benefit of the Reverend Sun Myung Moon's Unification Church. So one of the beneficiaries of this bill, if it passes, will be Reverend Moon's financial enterprises because they will be protected from allegations of recklessness, not just negligence.

Now, the first exception to the bill is title 18 United States Code section 924(h). This simply permits cases against sellers who sell guns they know will be used to commit a violent or drug trafficking crime. First, in the Kahr case, the guns were not sold; they were taken surreptitiously out of the factory. This exception would not apply.

Second, you have to show they knew that the guns would be used to commit a violent or drug trafficking crime—not that they were negligent in allowing guns in circulation, but that they had to know they would be used in a violent or drug trafficking crime.

The next exception is negligent entrustment. This applies where a gun dealer knows, or should know, that a purchaser will shoot someone with the gun, and that individual shoots a person. This exception only applies to a gun ''seller.'' Once again, Kahr Arms was not, in this situation, a seller. Moreover, Kahr Arms did not entrust its guns to its employees. Rather, Kahr's employees removed the guns from the plant because of Kahr's negligent security, inventory tracking, and hiring of employees with histories of criminal conduct and drug addiction. So that exception doesn't apply.

There is another exception, negligence per se. Under this provision, gun sellers whose negligence causes injury could not be liable unless, at a minimum, they also violated a law or regulation which the court found an ''appropriate basis'' for a negligence per se claim and which proximately caused the injury. The exception only applies to a gun seller, and the bill defines sellers to include only importers or dealers, not manufacturers.

Moreover, in many States—and Massachusetts is one—negligence per se claims are not allowed under their practice and, therefore, the exception would not apply.

Knowing violation of the law exception: This exception applies where a gun seller or manufacturer knowingly violates a State or Federal statute when it makes a sale that leads to an injury. Here, Kahr Arms did not violate statutes related to the sale or manufacturing of a gun. Rather, Kahr's employees surreptitiously took the guns out.

Breach of contract or warranty exceptions once again do not apply. It merely allows gun purchasers to sue if the seller or manufacturer did not provide the product or service it promised in its sales contract. This exception clearly does not apply.

Defective design is a narrow exception for actions for some deceptive design or manufacturing cases. But that exception does not apply.

Rather than being legislation that allows the good suits through and the frivolous ones out, this legislation effectively denies people, such as the family of Danny Guzman, their day in court, and many others. It would have denied the two police officers from New Jersey their day in court. It would have denied the victims of the snipers their day in court.

For these reasons and many others, I am opposed to the legislation and join others who are and look forward to continuing our discussions in the hours and days ahead.

Mr. SESSIONS. Mr. President, I thank my able colleague and will say, it is such a state we are in America that a company whose employees steal the guns and go out and shoot somebody with them gets sued for it. That is a fact of what my friend is saying, that these companies ought to be sued as a result of the theft of a gun by their employees.

If the law required them to do a background check and they failed to do so, they clearly would be liable under this act. The fact of filing off a serial number is, in fact, a criminal offense for which I have prosecuted quite a number of criminals. In addition, it would trigger, of course, a civil liability.

Gosh, we can talk about it a lot, and I will be glad to continue to discuss it, but the basic fact is a lot of these lawsuits are claiming that if they know, if manufacturers or distributors or sellers either know or should know that some guns will be used illegally, they should be responsible for it. That is not good law. This is against what we are about in this country.

All this legislation does is say if you sell the firearm according to law, if you manufacture it according to law and somebody commits an intervening criminal act with it and shoots somebody, you should not be sued. But we have this anti-gun crowd which doesn't care about general principles of law that have stood us in good stead for hundreds of years. They have learned to manipulate the matter as effectively as they can to maintain lawsuits. The letter from Beretta I read earlier indicates that in the District of Columbia, the gun manufacturers who sold a gun in Minnesota and it was transported some way to Washington, DC, and was used in a crime and somebody was shot, the gun manufacturer is liable for that. And, in fact, that one jurisdiction that allows that kind of lawsuit can be enough to take down every gun manufacturing company in the United States. They have had some tough years and a lot of litigation going on.

Mr. President, I have spoken again, and unless my colleague would like to reply, we will close. It has been a good debate, and I have enjoyed it.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO MAJOR GENERAL JOHN W. HOLLY

Mr. STEVENS. Mr. President, I come to the floor today to recognize the service of an outstanding leader and public servant. After more than 32 years in uniform, MG John W. Holly will soon retire and move into private life.

Four years ago, Major General Holly was appointed Program Director of the Joint Program Office of Ground-Based Midcourse Defense. For the past year he has also served as the Deputy Director of the Missile Defense Agency, overseeing the direction of all other ballistic missile defense programs in the agency.

The Ground-Based Midcourse Defense System is not your run-of-the-mill weapons program. It is virtually global in scope, spanning 12 time zones, from the United Kingdom to the outer reaches of the Aleutian Islands. It has required upgrades to early warning radars from the Cold War era and the development of the most advanced seagoing X-band radar ever built; this equipment was then linked with communication centers throughout the United States and firing sites in Alaska and California. This effort has also

involved the development, testing, and deployment of an interceptor-and-kill vehicle that closes in on its target at speeds of up to 18,000 miles an hour and hits within centimeters of its aim point.

Each of the major systems involved in this effort and many of their component parts were built under different contracts, often by different manufacturers, at different times, and with different technologies. The entire system is being developed and acquired by nontraditional methods, which ensure we deploy effective defensive capabilities to our troops as fast as possible. And, of course, all of these pieces must work together as one, flawlessly, every time and on very short notice.

Since the 1960s, Americans have dreamed of having this type of capability, and in the past 3 years we have made remarkable progress. None of this would have been possible if President Bush had not withdrawn the United States from the Anti-Ballistic Missile Treaty in June 2002. And much of our success can be attributed to the dedication and leadership of Major General Holly.

Major General Holly was ideally prepared for his responsibilities at the Missile Defense Agency. His experiences at the platoon through corps levels gave him an understanding of what it means to support our men and women in uniform. His management experience in research, development, and acquisition—especially in rocket propulsion and guidance—honed his ability to integrate complex systems and move all of the essential parts through development at the same time.

In short, Major General Holly was the right man, in the right place, at the right time for our missile defense needs. Americans are deeply indebted to him for answering the call to serve.

Like many of my Senate colleagues, I often had the opportunity to meet with Major General Holly. Many of those visits took place in Alaska. And like many of my Senate colleagues, I have always been impressed with his integrity, commitment, and leadership skills.

Under Major General Holly's leadership, we have cut a new path through uncharted territory. He personally oversaw the emplacement of silos and interceptors at Fort Greely, Alaska and Vandenberg Air Force Base, California. He showed what could be done if you provided the right guidance, tools, and motivation.

Americans owe Major General Holly a debt of gratitude for a lifetime of selfless service and for his profound contributions to our Nation and our security. Those of us in the Senate will miss his leadership and his counsel. We wish him and his family all the best in the years ahead.

DEMOCRACY IN ETHIOPIA

Mr. MCCONNELL. Mr. President, I want to bring to the attention of my colleagues an op-ed in today's edition of the Taipei Times by Berhanu Nega, the chairman of Ethiopia's main opposition political party.

While the op-ed sheds light on the opposition's viewpoint throughout the controversial elections, I want to second the author's call for everyone in Ethiopia to commit themselves to a peaceful resolution of this crisis. Simply put, such a commitment is in the national interests of that country.

Let me close by indicating that the Senate continues to follow events in Ethiopia. I ask that a copy of the op-ed be printed in the RECORD following my remarks.

[From the Taipei Times, July 22, 2005]

ETHIOPIA IS STRUGGLING FOR DEMOCRACY

(By Berhanu Nega)

When we in Ethiopia's political opposition agreed to participate in the election that the government called in June, we were under no illusion that the process would be faultless. After all, Ethiopia has never known democracy. The dictatorship of Mengistu Haile Mariam was Africa's most blood-curdling Marxist regime, and was replaced by today's ruling EPRDF, whose ''Revolutionary Democracy'' is but a more subtle variation on the same theme.

So we knew that there would be problems with the election, that voting would not be clean in the way Western countries take for granted. Yet we nonetheless believed that the opposition, led by the Coalition for Unity and Democracy (CUD), would have room to maneuver and campaign, owing to the government's desire for international legitimacy. So we decided to test the waters and push for a real political opening and a genuinely competitive vote. Many Ethiopians appear to have agreed with this strategy.

The government did make some media available and engaged in more than 10 live televised debates. So, at least at first, there seemed to have been some intention on the government's part to open up the process—if not completely, then somewhat.

Now, however, it appears that the authorities wanted only a small, managed opening, on the assumption that they could control the outcome.

About a month before the election, the government began to shut down the political space it had opened. Its election campaign took on a vilifying tone, charging that the opposition was bent on destroying ethnic groups through genocide. Indeed, it called the opposition ''interahamwe,'' invoking the memory of the Hutu militia that slaughtered 800,000 Rwandan Tutsis in 1994. The government also began to harass opposition parties, especially in rural areas.

This was unpleasant, but tolerable. So we continued campaigning. But things became nastier a week before the vote. Attendance at an official pro-government rally in the capital, Addis Ababa, was dwarfed by our rally the following day, when millions of demonstrators peacefully demanded change and showed their support for us. At that point, the government realized that its democratic opening was slipping out of its control.

Two days before the vote, our poll watchers and supporters were searched, arrested, and given one-day trials, with most sentenced to one or two months in jail. We feared that the voting would take place without the presence of our poll watchers. So we gave a press conference—all the opposition parties together—the day before the vote, demanding that the government release our party workers and allow people to vote freely.

Although the government met neither of these demands, the early results clearly showed that the opposition was gaining a large number of seats. It became obvious that we were winning in many constituencies and that we had won in Addis Ababa, as well as in most of the major cities and the rural areas.

What was surprising was the magnitude of the victory. In Addis Ababa, top government officials, including the ministers of education and capacity building, lost, as did the speaker of the House of People's Representatives. In rural constituencies, opposition candidates defeated such EPRDF heavyweights as the ministers of defense, information, and infrastructure, along with the presidents of the two largest regions, Oromia and Amhara.

The government wasted little time in responding: the next day, it declared itself the winner, with not even half of the constituencies reporting their results.

No surprise, then, that the public erupted in anger. When university students protested, the police moved in, killing one. In demonstrations the following day, 36 more people were killed. Soon after, our office workers were detained, and Hailu Shawel, Chairman of the CUD, and senior CUD official Lidetu Ayalew were put under house arrest. One hundred staff members were taken from our head office in Addis Ababa alone, and many more from regional offices. Up to 6,000 people were jailed—CUD members and even ordinary citizens.

My fear is that the will of Ethiopia's people will be stifled by government hard-liners. Doubts about the authenticity of the final results will create a danger of instability. Everyone—the government, the opposition, and the public—must commit themselves to a peaceful resolution.

To restore calm before a recount can be held, confidence-building measures are needed. The military must be taken off the streets. The ban on public demonstrations must be lifted. Those in jail must be released or given a fair trial. Those held simply because they do not support the government must be freed and allowed to participate in the democratic process. The government-controlled media must be open to diverse opinions; in particular, opposition access must be guaranteed.

Equally important, the international community must send observers—and thus a clear signal to the government that any attempt to maintain power by force or intimidation is unacceptable. The world must keep watching, just as it watched in Georgia, Ukraine, Lebanon, and Palestine.

For the first time in our ancient history, we Ethiopians have voted our conscience. Our people have played their part with courage and discipline. They deserve the opportunity to build a genuine democratic political system. That is their only guarantee to live in peace and to achieve prosperity.

ASEAN AND BURMA

Mr. MCCONNELL. Mr. President, I welcome the good news from Southeast Asia this morning that the illegitimate Burmese junta—the misnamed State Peace and Development Council, SPDC—has deferred its 2006 chairmanship of the Association of Southeast Asian Nations, ASEAN.

I appreciate and recognize the individual and collective efforts of certain ASEAN member states for their support of substantive political reform in Burma.

This deferral serves as evidence that the illegitimate military junta does indeed respond to international pressure, particularly from its neighbors. In the wake of this news, I renew my calls for countries in the region to pressure the junta to immediately and unconditionally release Aung San Suu Kyi and all prisoners of conscience in Burma and to continue their calls for political reform in that country; the United Nations Security Council to discuss and debate the threat the junta poses to its own people and the entire region; and the community of democracies to continue to keep freedom in Burma a top priority.

The assertion by the SPDC that the deferral will allow the generals to focus on the ''democratization process'' in Burma is as hollow as it is false.

The international community—especially the United States and the United Kingdom—must be clear that the junta will be judged not by what it says but by what it does. So long as Suu Kyi and other innocent Burmese remain imprisoned and without a voice in the political deliberations in Burma, there simply can be no credible democratization process in Rangoon.

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

VOTE EXPLANATION

ADA'S 15TH ANNIVERSARY

Mr. ROCKEFELLER. Mr. President, I was not able to make the roll call vote on this resolution commemorating the 15th anniversary of the Americans with Disabilities Act. I had a family commitment that I had to keep, and I knew that this resolution would pass overwhelmingly, and I needed to be with my family.

I did want to take time to hail this special occasion and I want to reaffirm my strong support for the Americans with Disability Act. This historic legislation has helped to ensure that people with disabilities can have access to a wide range of programs and policies to help them fully participate in public life and culture. Over the years, I am proud of the progress our country has made in including people with disabilities in public places and events. This sweeping legislation is perhaps one of the most significant pieces of legislation since the 1964 Civil Rights Act. Under this bold law, people with disabilities were ensured nondiscrimination in employment and public accommodations, including transportation and telecommunications. Implementation has not been easy, and it is still ongoing. While meaningful progress has been made, there is still a great deal of work to do to achieve the bold goal of the Americans with Disability Act.

We must continue to push hard to end discrimination and fully embrace inclusion, but today we should also celebrate the strides made since 1990 on behalf of people with disabilities.

15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

Mr. KENNEDY. Mr. President, today we celebrate the enactment of the Americans with Disabilities Act in 1990—one of the greatest civil rights laws in our history. Fifteen years ago, the Nation adopted the fundamental principle that people should be measured by what they can do, not what they can't. The Americans with Disabilities Act began a new era of opportunity for millions of disabled citizens who had been denied full and fair participation in society.

For generations, people with disabilities were pitied as people who needed charity, not opportunity. Out of ignorance, the Nation accepted discrimination for decades, and yielded to fear and prejudice. The passage of the ADA finally ended these condescending and suffocating attitudes—and widened the doors of opportunity for all people with disabilities.

The 15th anniversary of this landmark legislation is a time to reflect on how far we have come in improving the ''real life'' possibilities for the Nation's 56 million people with disabilities. In fact, the seeds were planted long before 1990.

In 1932, the United States elected a disabled person to the highest office in the land. He became one of the greatest Presidents in our history. But even Franklin Roosevelt felt compelled by the prejudice of his times and hid his disability as much as possible. The World War II generation began to change all that.

The 1940s and the 1950s introduced the Nation to a new class of Americans with disabilities—wounded and disabled veterans returning from war to an inaccessible society. Even before the war ended, rehabilitation medicine had been born. Disability advocacy organizations began to rise. Disability benefits were added to Social Security. Each decade since then has brought significant new progress and more change.

In the 1960s, Congress responded with new architectural standards, so we could have a society everyone could be a part of. No one would have to wait outside a new building because they were disabled.

The 1970s convinced us that greater opportunities for fuller participation in society were possible for the disabled. Congress responded with a range of steps to improve the lives of people with mental retardation, to support the right of children with disabilities to attend public schools, to guarantee the right of people with disabilities to vote in elections, and to insist on greater access to cultural and recreational programs in their communities.

The 1980s brought a new realization, however, that when we talk about helping people with disabilities, we can't just rely on government programs. We need to involve private industry as well. Congress guaranteed fair housing opportunities for people with disabilities, required fair access to air travel, and made telecommunications advances available for people hard of hearing or deaf.

The crowning achievement in these decades of progress was passage of the Americans with Disabilities Act in 1990 and its promise of a new and better life to every disabled citizen, in which their disabilities would no longer put an end to their dreams.

As one eloquent citizen with a disability has said, ''I do not wish to be a kept citizen, humbled and dulled by having the State look after me. I want to take the calculated risk, to dream and to build, to fail and to succeed. I want to enjoy the benefits of my creations and face the world boldly, and say, this is what I have done.''

Our families, our neighbors, and our friends with disabilities have taught us in ways no books can teach. The inclusion of people with disabilities enriches all our lives. My son Teddy continues to teach me every day the greatest lesson of all that disabled does not mean unable.

As the saying goes, when people are excluded from the social fabric of a community, it creates a hole—and when there is a hole, the entire fabric is weaker. It lacks richness, texture, and the strength that diversity brings. The fabric of our Nation is stronger today than it was 15 years ago, because people with disabilities are no longer left out and left behind. And because of that, America is a greater and better and fairer nation.

Today in this country we see the signs of the progress that mean so much in our ongoing efforts to include persons with disabilities in every aspect of life—the ramps beside the steps, the sidewalks with curb-cuts to accommodate wheelchairs, the lifts for helping disabled people to take buses to work or the store or to a movie.

Disabled students are no longer barred from schools and denied an education. They are learning and achieving at levels once thought impossible. They are graduating from high schools, enrolling in universities, joining the workforce, achieving their goals, enriching their communities and their country.

They have greater access than ever to the rehabilitation and training they need to be successfully employed and become productive, contributing members of their communities.

With the Ticket to Work and Work Incentives Improvement Act, we finally linked civil rights closely to health care. It isn't civil and it isn't right to send a disabled person to work without the health care they need and deserve.

These milestones show us that we are well on the way to fulfilling the promise of a new, better, and more inclusive

life for citizens with disabilities—but we still have a way to go. Today, as we rightly look back with pride, we also need to look ahead.

We still face many challenges, especially in areas such as health care and in home-based and community-based services and supports. Many people with disabilities still do not have the health care they need.

A strong Medicare prescription drug benefit is essential for all people with disabilities. Today, about one in six Medicare beneficiaries—over six million people—are people with disabilities under age 65. Over the next 10 years that number is expected to increase to 8 million.

These persons are much less likely to be able to obtain or afford private insurance coverage. Many of them are forced to choose between buying groceries, paying their mortgage, or paying for their medication.

Families raising children with significant disabilities deserve health care for their children. No family should be forced to go bankrupt, stay in poverty, or give up custody of their child in order to get needed health care for their disabled child. They deserve the right to buy in to Medicaid, so that their family can stay together and stay employed.

People with disabilities and older Americans need community-based assistance as well, so they can live at home with their families and in their communities. We need to find a way to ensure this support is available, without forcing families into poverty. This is today's challenge to the Nation, and we need to work together to meet it.

The Americans with Disabilities Act was an extraordinary milestone in the pursuit of the American dream. Many disability and civil rights leaders in communities throughout the country worked long and hard and well to achieve it.

To each of you, I say thank you. It is all of you who are the true heroes of this achievement, and who will lead us in the fight to keep the ADA strong in the years ahead.

Sadly, the Supreme Court is not on our side. In the past 15 years, it has restricted the intended scope of the ADA. Imagine you are a person with epilepsy in a job you love and you get excellent personnel reviews. You are taking medicine that controls the seizures and you have no symptoms. But your employer finds out you have epilepsy and fires you. Should you be able to sue your employer for discrimination? Congress intended you should—but the Supreme Court ruled you can't.

The Court continues to carve out exception after exception in the ADA. But discrimination is discrimination, and no attempt to blur that line or write out exceptions into the law should be tolerated. Congress wouldn't do it and it is wrong for the Supreme Court to do it.

The ADA was a spectacular example of bipartisan cooperation and success. Passed by overwhelming majorities in both the House and the Senate, Republicans and Democrats alike took rightful pride in the goals of the law and its many accomplishments.

I know that the first President Bush, Senator Bob Dole, and many Members of Congress from both sides of the aisle consider their work on the ADA to be among their finest accomplishments in public service. It is widely regarded today as one of the true giant steps in our ongoing two-centuries-old civil rights revolution.

The need for that kind of bipartisan cooperation is especially critical today, as the Senate considers the nomination of John Roberts to fill Justice O'Connor's vacancy on the Supreme Court. Many people are generally aware of Justice O'Connor's role in a number of landmark decisions on reproductive and civil rights. Few know, though, that she cast the deciding vote in Lane v. Tennessee in 2004, the 5–4 ruling on the constitutionality of the ADA and whether Congress has the power to prohibit the exclusion of people with disabilities from public facilities in communities across the country.

The four dissenting Justices, in the name of States' rights, believed that Congress had no authority to do so. The case was brought by a paraplegic who complained that he was forced to crawl up the steps of the local courthouse to gain entry to the building. Justice O'Connor's swing vote upheld the ADA and the right of Congress under the Constitution to pass this landmark law to protect persons with such disabilities and guarantee their access to courts and other public facilities.

The Senate's decision on the confirmation of Judge Roberts to the Supreme Court may very well determine whether the ADA will survive as we know it. His views on a wide range of issues are little known, but some of his views raise serious questions about his position on the rights of those with disabilities, and Senators have a clear responsibility in the coming hearings to determine his views on these basic issues.

Hopefully, the new Supreme Court will continue to support the right of Congress to act in this important area, so that the extraordinary progress of the past 15 years will be sustained, not undermined. I intend to do all I can to see that it is.

Today, more than ever, disability need no longer mean the end of the American dream. Our goal is to banish stereotypes and discrimination, so that every disabled person can realize the dream of working and living independently, and being a productive and contributing member of our community.

That goal should be the birthright of every American—and the ADA opened the door for every disabled American to achieve it.

A story from the debate on the ADA eloquently made the point. A postmaster in a town was told to make his post office accessible. The building had 20 steep steps leading up to a revolving door at the only entrance. The postmaster questioned the need to make such costly repairs. He said, ''I've been here for 35 years, and in all that time, I've yet to see a single customer come in here in a wheelchair.'' As the Americans with Disabilities Act has proved so well, if you build the ramp, they will come, and they will find their field of dreams.

So let's ramp up our own efforts across the country. We need to keep building those ramps, no matter how many steps stand in the way. We will not stop today or tomorrow or next month or next year. We will not ever stop until America works for all Americans.

I ask all Senators to join me today in committing to keep the ADA strong. It is an act of conscience, an act of community, and above all, an act of continued hope for the future.

Mr. CORZINE. Mr. President, I rise today to speak on a topic that has great importance to me and to the citizens of New Jersey. Fifteen years ago, Congress passed historic civil rights legislation based on the fundamental principle that this great Nation of ours benefits from the talents of every citizen. The passage of the Americans with Disabilities Act (ADA) began an era of opportunity for 54 million Americans. In the 15 years since, this landmark legislation has thrown open doors and provided equal opportunities for people with disabilities. The ADA has brought the American dream within reach of millions of Americans.

I regret that I was unable to mark the fifteenth anniversary of the ADA with my Senate colleagues. Last night, I joined the family of Dwayne Reeves, a Newark school police officer killed in the line of duty, for the officer's wake. My deepest sympathies and my prayers are with his family as they grieve this senseless and tragic loss.

In the 15 years since the passage of the ADA, we have witnessed dramatic changes throughout the Nation—from greater public accommodation at places of business and commercial establishments to the expansion of government services for disabled citizens and the stunning advances in transportation and telecommunications technology. Citizens who could not fully participate in their communities are now able to go to the park, visit a movie theater, or attend a ballgame. In my home State of New Jersey, beach communities from Sandy Hook to Cape May have installed wheelchair access ramps and provide beach wheelchairs for disabled individuals, ensuring that all citizens can join family and friends for a relaxing day at the beach. These steps have enabled many citizens to contribute to their communities, make the most of their abilities, and live their lives to the fullest.

Yet we must not be content to stop here. There is still much work to be

done to ensure that all Americans, especially those who were discriminated against until 15 years ago, are given an equal chance at using all of America's tools for success. This is why I, along with my colleague Senator HARKIN and so many others, have worked to improve and expand the Ticket to Work, Workforce Investment Act, and Vocational Rehabilitation programs. These programs provide unparalleled opportunity to Americans with disabilities by equipping them with the skill sets necessary to work in education, science, business, government and other fields that weren't previously accessible. In addition, I plan to continue my efforts to defend and strengthen the Individuals with Disabilities Education Act because equal opportunity does not exist without equal access to education.

The ADA is about ensuring that every American can participate fully in all of the daily activities that many of us take for granted. Whether it is using the phone, going out to dinner, or commuting to work on public transportation, the ADA ensures that all citizens have the ability to carry on their personal affairs. Fifteen years ago, we said yes to inclusion, yes to independence, and yes to integration into every aspect of society for people with disabilities. We have made a lot of progress since that day. Let us make sure we continue down this path by providing equal opportunity and ensuring that our Nation benefits from the unique abilities of all Americans.

Mr. HARKIN. Mr. President, today marks the 15th anniversary of the Americans with Disabilities Act, a truly momentous occasion that the Senate marked yesterday by voting 87–0 in support of a resolution recognizing and honoring this anniversary. On this anniversary, we celebrate one of the great, landmark civil rights laws of the 20th century—a long overdue emancipation proclamation for people with disabilities.

We also celebrate the men and women, from all across America, whose daily acts of protest, persistence and courage moved this law forward to passage 15 years ago.

We have made great progress in America in the last 15 years, and evidence of that progress can be found all around us. It has changed lives—and changed our Nation. It has made the American dream possible for tens of millions of people with disabilities.

But, our work is not yet complete in fulfilling the four great goals of the Americans with Disabilities Act: equal opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. I cannot think of a better way to celebrate the anniversary of the ADA than by rededicating ourselves to these goals. I look forward to working with my fellow Senators and the disability community to building on the progress that we have made over the past 15 years. Toward that end, I ask unanimous consent to print in the RECORD a ''Statement of Solidarity'' from over 700 disability rights and civil rights organizations, led by the American Association of Persons with Disabilities and the National Council on Independent Living, that highlights the many challenges we face as we continue on the path that leads to liberty and justice for all. I hope that my fellow Senators will review this document carefully, as I believe it raises a number of important issues that we should consider as we once again rededicate ourselves to realizing the full promise of the ADA.

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

STATEMENT OF SOLIDARITY ON 15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT JULY 26, 2005

Fifteen years ago today, with bipartisan support in Congress and broad endorsements from the civil rights coalition, President George H. W. Bush signed into law the Americans with Disabilities Act (ADA), calling for the ''shameful wall of exclusion'' to come tumbling down. As we mark this significant anniversary, we celebrate improvements in access to polling places and the secret ballot, government services and programs, transportation, public places, communication and information technology. Parents pushing strollers, workers delivering packages, and travelers pulling roller bags have grown accustomed to curb cuts, ramps, and other accessibility features less common in 1990. Our country is more accessible today thanks to the ADA, and all Americans are better off.

Although substantial progress has been made, we are reminded every day of the significant remnants of the ''shameful wall of exclusion'' that continue to prevent this great country from realizing the full promise of the ADA.

The majority of Americans with disabilities continue to live in poverty and unnecessary isolation.

Most adults with disabilities are either not working or not working to their full potential, robbing the economy of the contributions of tens of millions of would-be workers.

Children and youth in special education continue to drop out of school in alarming numbers before obtaining a regular high school diploma.

The promises of higher education, accessible and affordable housing and transportation, quality affordable healthcare, and a living wage continue to elude many adults with disabilities and their families.

The ADA is slowly driving policy changes that have enabled more people with significant mental and physical disabilities to live independently in the community, but the ongoing institutional bias in the Medicaid program keeps too many people trapped in nursing homes and other institutions, unable to enjoy the freedoms and personal choices about where and how to live that other Americans take for granted.

New technologies are increasing the independence and productivity of many Americans. Yet, advances in technology alone are not guaranteed to improve the lives of people with disabilities. As we develop applications like Voice-over-Internet-Protocol (VOIP) telephony, wireless telecommunications, widespread broadband internet connectivity, new medical devices, new computer applications, and a plethora of new genetic tests, it is critical that these technologies be designed and used in a way that increases the inclusion, independence, and empowerment of Americans with disabilities as well as America's growing senior population.

The ADA has begun to change the landscape of our cities and towns, but a civil rights law alone does not create the kind of transformation of attitudes that Americans with disabilities, their families, and allies are fighting to achieve. This kind of change requires widespread discussion, education, and consciousness-raising.

In 2005, how do fears, myths, and stereotypes continue to artificially limit understanding and acceptance of disability as a form of human diversity?

What role do the mass media and entertainment industries play in forming public perceptions of disability, and how can decision makers in these important fields be influenced to produce more content that depicts the actual life experience and first person perspectives of people with disabilities?

What can be done to further improve accessibility at the design stage of new products and programs?

How can disability awareness and disability-friendly practices create more productive places of business and learning?

What concrete actions can worship communities and sports and recreation programs take to foster full participation of children, youth, and adults with disabilities in these activities?

Why do so many Americans continue to view disability as a fate worse than death, and how do these views affect surrogate medical decisionmaking and the application of new genetic testing technologies?

These questions form the basis of an American conversation that still needs to take place.

Widespread social change cannot simply be legislated, and it will not occur without bold leadership from all sectors of American society.

Public and private employers, in particular, must make a serious, concerted effort to recruit and advance qualified workers with disabilities within their labor force.

Election officials must take the necessary actions to ensure that every adult is able to enter his or her polling place and cast a secret and independent vote.

School administrators and university presidents must embrace their responsibility to deliver a world-class education to all their students.

It is time for leaders across America—business owners, little league coaches, moms and dads, sheriffs and clergy—to reject exclusion, paternalism, and segregation and to take personal responsibility for removing barriers to full participation that still exist in every community in this country.

With the aim of making America work better for everyone, the undersigned organizations pledge to build on the progress of the last 15 years and join together to promote the full participation and self-determination of the more than 50 million U.S. children and adults with disabilities. We believe that disability is a natural part of the human experience that in no way should limit the right of all people to make choices, pursue meaningful careers, live independently, and participate fully in all aspects of society. We encourage every American to join us in this cause, so that our country may continue on the path that leads to liberty and justice for all.

Signed by 743 organizations.

Mr. BROWNBACK. Mr. President, I rise today to remember an important occasion that represents 15 years in our Nation's history and welcome the opportunity to speak on these issues which are near and dear to my heart. On July 26, 1990, President George H.W. Bush signed into law the Americans

with Disabilities Act, ADA, with bipartisan support in Congress under the leadership of then-Senate Minority Leader Bob Dole, my predecessor from Kansas, and thanks in large part to the dedication and hard work of my current colleague, the good Senator from Iowa, TOM HARKIN, as well as current Senators CHARLES GRASSLEY of Iowa and DANIEL INOUYE of Hawaii.

Today we must continue to dismantle, brick by brick, the ''shameful wall of exclusion'' that existed in the United States previous to the existence of the ADA. And, building on our 15 years of experiences in tearing down the wall of exclusion, we must continue to bring to realization the full promise of the ideas entailed in the ADA. To carry on this significant legacy, we must recognize that, today, we face new challenges and new policy considerations.

It is estimated that there are now in America 50 million citizens with some sort of disability. An amazing individual from Kansas who visited D.C. last week to tell his story is 7-year-old Matthew Whaley. Matthew was denied access to the local recreation department's baseball league because he happened to have cerebral palsy. However, because of the Americans with Disabilities Act, he is now showing off his All-Star baseball skills as an outfielder.

When I think about what Congress needs to accomplish for people with disabilities over the next few years, to continue to achieve the dream that should have been, and that the ADA began to make possible, I consider what policies we need to change to ensure that Matthew, and others with disabilities, can continue to make a positive difference in this world.

We must consider America's aging population. According to the U.S. Census, by the year 2050, 21 percent of America's total population will be age 65 and over. It is understood that the probability of having a disability increases with age. This means that America's population with disabilities will continue to grow.

It is imperative that we look for ways to meet the needs of this population and ensure that they can continue to live independent, fulfilling lives. Just recently, I spent time with a constituent of mine who embodies this idea—a man named Rick Davidson from Olathe, KS. Rick is a motivational speaker for at-risk youth, has traveled across the country meeting with lawmakers on disabilities' policy issues, and is attending college for an associates degree in Web design. Rick has lived a healthy and active life as a quadriplegic for almost 18 years—doctors initially estimated that Rick had just 16 years to live.

Another way we can make a positive impact for the future is through supporting endeavors such as the New Freedom Initiative—a comprehensive program to promote the full participation of people with disabilities in all areas of society by increasing access to assistive technologies, expanding educational and employment opportunities, and promoting increased access to daily community life.

In the context of changing public policy, we must also examine how effectively government programs, such as Medicare and Medicaid, are serving the needs of individuals with disabilities. For example, the Medicare Program's benefit for mobility devices has an ''in the home'' restriction which limits coverage to only those mobility devices that are necessary within a patient's home. Unfortunately, this does not address the needs of a patient who would use this device to obtain access to his or her community, work, school, physician's office, pharmacy, or place of worship. In view of this, I recently signed on a letter requesting that Medicare's mobility device ''in the home'' restriction be modified to improve community access for Medicare recipients with disabilities. I am also a cosponsor of legislation that would offer lower income families who have children with disabilities the opportunity to acquire health care coverage through the Medicaid Program.

Along these lines, Congress must address the issue of accessibility to long-term care for the elderly and those with disabilities. Currently, we have a Medicaid system that spends approximately two-thirds of its dollars on institutional care and approximately one-third on community services. This antiquated policy effectively removes disabled and elderly individuals from their community, family, and friends. Even from a cost perspective, this system does not make sense. According to the National Association of Insurance Commissioners, the cost of nursing home care ranges from $30,000 to $80,000 per year, while the annual cost of home and community care is much lower.

The bottom line is that Congress must work to align the Medicare and Medicaid Programs with goals of the Americans with Disabilities Act. After all, we live in America and in this country we celebrate independence, self-determination, uniqueness, and a sense of community. We must maintain these ideals for our children as well. This year, I introduced the Prenatally Diagnosed Conditions Awareness Act. For some conditions that can be detected in the womb, we are aborting 80 percent or more of the babies who test positive. The effect of this type of ''weeding out'' is the creation of a sort of new eugenics, a form of systematic, disability-based discrimination. The latter process is to the detriment of our society.

In addition to the many abilities that persons with disabilities have, these individuals so often have a perspective the rest of us don't have. We learn compassion, heroism, humility, courage, and self-sacrifice from these special individuals—and their gift to us is to inspire us, by their example, to achieve these virtues ourselves.

In our discussion of fostering independence, we must keep in mind the importance of guaranteeing all individuals their right to vote. Our citizens with disabilities deserve equal access and an equal voice in our democratic process. Initiatives such as the Help America Vote Act, enacted in 2002, created vital grant programs ensuring electoral participation by persons with disabilities and making polling places accessible to persons with disabilities. Congress must continue to look for ways to expand access to our electoral system for persons with disabilities.

While we can change public policy to reflect the ideas embodied in the ADA, it is just as important to seek change at the individual level. Every human being has the ability to change their own ideas and actions in their daily life as they meet an elderly person or a person with disabilities. As Americans, we have a God-given duty to love each and every person, and treat them, not as a means to an end, but as an end in and of themselves. As a Nation, we are so blessed with the presence of individuals who are different than us, and who have the ability to teach us; to teach us about love, about compassion, and about what it means to have strength and courage from within.

My vision for America is to continue to build on the momentous legacy of the ADA, where we as citizens continue to celebrate the breadth of experience and life lessons that persons with disabilities offer us.

Over 137,000 individuals with disabilities reside in my State of Kansas. My hope for them is the same as my hope for all Americans who have disabilities: that we as a society and as a government do everything in our power to foster their independence, to nurture their soul and to embrace their contributions to society.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. JOHNSON. Mr. President, I rise today in support of Senate amendment No. 1389 to postpone the current round of domestic military base closures.

The threats confronting the United States today are vastly different from those during the Cold War, and we must shift our defense posture to address new and emerging enemies. I do not dispute that closing and realigning excess military capacity is critical to that endeavor. However, I fear we are rushing to conclude this process before having all pertinent national security information to make a well-informed decision. In short, I believe we have put the cart before the horse.

While I support delaying this base closure round, I do not dismiss the important work of the Base Realignment and Closure Commission. The Commissioners and their staff should be commended for their diligent efforts to carefully review and evaluate each recommendation made by the Pentagon.

Having said that, I believe closing military installations without thoughtful consideration is short-

sighted. Before implementing this round of base closures critical issues should be resolved to ensure we have not irrevocably damaged our ability to confront threats at home and abroad. The amendment requires specific benchmarks be fulfilled before the current round of domestic base closures is completed. I believe these requirements are logical and necessary in light of the threats facing the United States.

The ongoing conflicts in Iraq and Afghanistan are our most urgent national security concern, but the United States must be prepared to address other potential enemies. According to a recent Defense Department report, China has expanded its military reach enabling them to threaten Taiwan, Japan, and the U.S. military in the Pacific. Furthermore, China continues to both improve and expand its nuclear arsenal and has the capacity to field advanced missiles able to strike the United States.

China is not our only national security concern, as both Iran and North Korea have refused to relinquish their nuclear weapons programs. U.S. intelligence experts agree North Korea has developed multiple nuclear weapons, while Iran, an active state sponsor of terrorism, continues to pursue chemical and biological weapons.

Before completing this round of base closures, I believe it is prudent and sound policy to analyze all pertinent information that may impact our national security. For instance, the Department of Defense is undertaking a monumental shift in overseas deployments, which is long overdue. However, the Commission on Review of Overseas Military Facility Structure of the United States, commonly referred to as the Overseas Basing Commission, has indicated the Pentagon's plan to rotate soldiers back to the United States from overseas installations may be flawed. The Overseas Basing Commission argues if a crisis arises abroad, the military does not have enough sea and air transportation to rotate forces rapidly enough to respond. Furthermore, the Commission believes the Pentagon has understated the costs to redeploy troops to American soil. Finally, and most troubling, the Commission argues the plan could result in extended and more frequent rotations, which could strain U.S. military personnel and their families to the point where the United States is incapable of maintaining an all-volunteer force.

In addition, currently tens of thousands of brave men and women are serving in Iraq and Afghanistan, and like all Americans, it is my sincere hope that these soldiers return home as soon as possible. Having said that, I recognize immediately withdrawing American troops from Iraq could result in chaos and undermine the tremendous efforts made by all our service members. However, I question the timing of this round of base closures given that our Nation is at war and so many of our soldiers are supporting this effort. Until these troops have finished their important mission, and have returned home safely, it does not make sense to close military installations at home.

Finally, we should not move forward with this round of base closures until the Defense Department completes the Quadrennial Defense Review and presents its findings to the President and Congress. The QDR is integral to U.S. military strategy as it assesses our future military capabilities and identifies emerging threats. It makes little sense to restructure our defenses until Congress has access to this vital piece of information.

I believe that these questions must be answered before we proceed with closing domestic military installations. We must reorganize our military force in order to respond to the threats of the 21st century. The challenge is to do so in a manner that is not detrimental to our national security and the men and women who proudly serve our country.

Mrs. FEINSTEIN. Mr. President, I rise today in support of an amendment to the fiscal year 06 National Defense Authorization Act, S. 1042, that authorizes the Navy to convey approximately 230 acres of open space land along the eastern boundary of Marine Corps Air Station Miramar to the county of San Diego in order to provide access to the historic Stowe Trail.

The Stowe Trail at one time functioned as the primary road leading to the historic town of Stowe, and now links the Goodan Ranch and Sycamore Canyon Preserves in the north with the Mission Trails Regional Park and Santee Lakes Regional Recreation Area further south.

According to county records, up until the 1930s when access to this portion became restricted for military use, the Stowe Trail had served for some 80 years as the principle thoroughfare between the towns of Santee and Poway.

The 230 acres of land that would be conveyed by the Navy under this provision include diverse plant and animal life and environmentally-sensitive habitats and would provide a natural wildlife corridor between the two preserves, as well as with the Santee Lakes Recreation Area.

Under the control of the County of San Diego, this land will become part of an extensive open space trail system that will not only increase recreational opportunities in the region, but will also provide a buffer zone that will mitigate against potential encroachment that could impact the essential military missions at Marine Corps Air Station Miramar.

It is important to point out that this proposed land conveyance is the fruition of a process set in motion jointly by the San Diego County Board of Supervisors and Marine Corps Air Station Miramar in 2002.

Both sides have worked together closely since that time to ensure that the result will be a win-win situation for both county and the Marines.

For example, as part of the land conveyance process, the County of San Diego has fully committed to compensate the Navy by paying the full fair market value for this property.

I would therefore ask unanimous consent that it be in order for the Senate to consider this amendment, and that the amendment be agreed to.

I would also ask that this statement and the relevant amendment be placed together in the CONGRESSIONAL RECORD.

AMENDMENT NO. 1406

Mr. LUGAR. Mr. President, I rise in support of amendment No. 1406 that authorizes the Secretary of Defense, in the event of an overseas emergency, to transfer $200 million in defense articles, services, training and other support to the State Department to address the crisis. The funding would be used by the Office of Stabilization and Reconstruction at the State Department, a new office that has been created to organize the civilian side of the military/civilian response in post-conflict situations. The authority provided is permissive. It does not require such a transfer.

The Secretary of Defense requested the authority contained in this amendment in his submission of legislation to be considered by the Congress. The Department of Defense needs a capable civilian partner that is prepared to go into hostile environments to assist the military in stabilizing a post-conflict situation. It also needs to be able to hand off a stabilized situation to civilian leadership. Without such a capacity, the military ends up performing tasks that civilians could and should be carrying out. As a consequence, the resources of the Armed Services are stretched thin and deployments of military personnel have to be extended beyond expectations.

The Senate Foreign Relations Committee has for some time been deeply involved in building the capacity of the State Department to play a leadership role in this area. Through legislation, hearings, and meetings of a policy advisory group of experts, we have called for the organization of a corps of civilians who are willing and able to undertake difficult missions in wartorn countries. The Office of Stabilization and Reconstruction, led by a Coordinator, Ambassador Carlos Pascual, is now up and running and doing an excellent job.

My amendment reflects continued Senate Foreign Relations Committee attention to the issue. On June 16, we held a hearing on stabilization and reconstruction entitled ''Building Peace in a Hostile Environment.'' Ambassador Pascual participated as did two witnesses from the Defense Department, Ryan Henry, Principal Deputy in the Office of the Under Secretary of Defense for Policy and LTG Walter Sharp, Director of Strategic Plans and Policy at the Joint Staff. James

Kunder, Assistant Administrator for Asia and the Near East, testified on behalf of USAID.

Both Defense Department witnesses urged the committee to support the transfer authority contained in my amendment. Mr. Henry stated that it is in the Defense Department's interest to help the Stabilization and Reconstruction office ''fill the gap in its ability to deploy in a crisis.'' General Sharp said that General Myers, the Chairman of the Joint Chiefs, supports such a request because it would ''greatly improve Ambassador Pascual's ability to rapidly deploy in a crisis.''

As most Members know, the foreign affairs budget is under considerable pressure. The Senate has just finished debating H.R. 3057, the State-Foreign Operations Appropriations bill. The 302(b) allocations for this bill were some $1 billion below the President's request. On the House side, the corresponding amount is some $3 billion below the President's request. When conferenced, the appropriated funding levels for foreign affairs will once again fall short of the amount that the President of the United States says he needs to conduct a strong foreign policy at a time of great complexity and danger.

Tight budgets yield painful compromises. During consideration of H.R. 3057, Senators CORZINE and DEWINE offered an amendment to appropriate $50 million to support African Union peacekeeping efforts in Sudan. They took the funding from the Conflict Response Fund that is to be used in emergencies by the new Office of Stabilization and Reconstruction. The amendment was accepted.

That development has made the passage of this amendment to the Department of Defense bill even more crucial. The amendment does not make the transfer of services and other support automatic. Rather, the Secretary of Defense is authorized to transfer the support only if he determines that an emergency exists that requires the immediate provision of such assistance. He must also determine that such assistance is in the national security interests of the United States.

The Department of Defense has asked for the authority. It recognizes that coordination between the State Department and USAID during international emergencies can actually save money and lives. It reflects a new kind of cooperation between the military and the civilian component of our Government that a number of Members have spent much time and effort trying to promote. I urge my colleagues to vote in favor of the amendment.

AMENDMENT NO. 1407

Mr. President, I rise in support of amendment 1407 that strikes section 1008 from the bill under consideration.

The purpose of the amendment is to allow the Defense Department to pay its fair share of the costs of building safer embassies. Section 1008 allows Defense Department participation in the program only to the extent that unreimbursed services provided by State to DOD exceed unreimbursed services provided by DOD to State. It is a complicated formula that, in the end, will probably result in no contributions from the Department of Defense. There is no other agency that has similar legislation.

More than 61,000 American Government employees from 30 agencies work at our embassies and consulates. The Departments of Justice, Homeland Security, Commerce, Treasury, Health & Human Services, Agriculture, and every other agency that has personnel overseas are contributing to the cost-sharing program. After an interagency negotiation, all executive branch departments, including the Defense Department, agreed to contribute to the cost-sharing program. But section 1008 would essentially vitiate that agreement on the part of the Department of Defense.

The Senate has a deep interest in the safety and well-being of our citizens working overseas. Defense Department employees are second in number only to the State Department in many of our embassies. We all know that U.S. facilities are a prime target for terrorists. The 1998 bombings of two American embassies in Africa made it clear that the threat can erupt in unexpected places.

The United States has some 251 embassies and consulates overseas. Many of them do not meet security standards. They are not set far enough back from busily traveled streets, and they are not constructed to minimize damage if attacked. The capital construction program focuses on replacing 150 embassies, prioritized according to a formula that encompasses the threat they face. New embassy compounds are being built on a construction schedule that can be cut almost in half if the cost-sharing program is fully implemented.

The cost-sharing program allocates construction expenses among agencies on the basis of future occupancy and the need for space specially designed for security purposes. After the State Department, the military ranks among the top contributors expected to participate in the program. Defense Department nonparticipation would stretch the embassy construction timetable by several years, prolonging the risks to embassy workers from all agencies.

President Bush has designed an interagency cost-sharing program with a rapid construction timetable. He understands the risks and is working to address them. The cost-sharing program has been embraced by all Cabinet officers, including Secretary Rumsfeld. We in the Congress should not agree to a measure that will disrupt this timetable. We should not slow a process that directly addresses the threat of terrorism toward embassies, which are the most visible and accessible U.S. targets overseas.

I ask my colleagues to support this amendment.

Mr. KENNEDY. Mr. President, our military is first in the world, because of the quality and training of our personnel and because of the technological sophistication of our equipment and weaponry. A large portion of the best civilian scientific minds in the Defense Department are nearing retirement age—yet the legislation before us cuts funding for the military's basic research in math and science.

Amendment No. 1401 that I am offering with the Senator from Maine and others will ensure that the Department maintains its support for scientific research and development. It includes $10 million, to double the funding for the Department's current ''SMART Scholars'' program, which is essentially an ROTC program for the agency's civilian scientists. It increases by $40 million the Department's funding of basic research in science and technology, to ensure that its investment in this field is maintained and our military technology remains the best in the world. The $50 million total cost of the amendment is offset by a $50 million reduction in Department-wide administrative funding.

Our amendment provides sufficient funding for the full cost of college scholarships and graduate fellowships for approximately 100 science, technology, engineering, and math students. It increases basic research on an equal basis in the Army, Navy, Air Force, DARPA, and National Defense Education Program. It is supported by more than 60 of the most prestigious institutions of higher education in America.

Defense Department-sponsored research has resulted in stunningly sophisticated spy satellites, precision-guided munitions, stealth equipment, and advanced radar. The research has also generated new applications in the civilian economy. The best known example is the Internet, originally a DARPA project.

Advances in military technology often have their source in the work of civilian scientists in Department of Defense laboratories. Unfortunately, a large percentage of these scientists are nearing retirement. Today, nearly one in three DOD civilian science, technical, engineering, and mathematical employees is eligible to retire. In 7 years, 70 percent will be of retirement age.

Another distressing fact is that the number of new scientists being produced by our major universities at the doctoral level each year has declined by 4 percent over the last decade. Many of those who do graduate are ineligible to work on sensitive defense matters, since more than a third of all science and engineering doctorate degrees awarded at American universities go to foreign students.

It is unlikely that retiring DOD scientists will be replaced by current private industry employees. According to

the National Defense Industrial Association, over 5,000 science and engineering positions are unfilled in private industry in defense-related fields.

The Nation confronts a major math and science challenge in elementary and secondary education and in higher education as well. We are tied with Latvia for 28th in the industrialized world today in math performance, and that is far from good enough. We have fallen from 3rd in the world to 15th in producing scientists and engineers. Clearly, we need a new National Defense Education Act of the size and scope passed nearly 50 years ago.

At the very least, however, the legislation before us needs to do more to maintain our military's technological advantage. The pending bill irresponsibly cuts science and technology research by 17 percent. It increases funding for the SMART civilian ROTC science program but to only one-third of the Defense Department's request. Last year, over 100 ''highly rated'' SMART Scholar applications were turned down because of insufficient funding. Our amendment has sufficient funds to support every one of those talented young people who want to learn and serve.

It also increases the investment in basic research in science and technology. Investments by DOD in science and technology through the 1980s helped the United States win the Cold War. But funding for basic research in the physical sciences, math and engineering has not kept pace with research in other areas. Federal funding for life sciences has risen four-fold since the 1980s. Over the same period, appropriations for the physical sciences, engineering, and mathematics have remained essentially flat. Funding for basic research fell from fiscal year 1993 to fiscal year 2004 by more than 10 percent in real terms.

The Defense Science Board has recommended that funding for Science and Technology reach 3 percent of total defense spending, and the administration and Congress have adopted this goal in the past. The Board also recommended that 20 percent of that amount be dedicated to basic research, but the pending bill would cut funding for such research by 17 percent. We must do better, and this amendment does that.

The amendment's offset reduces the defensewide administrative fund under the Secretary of Defense. It does not affect operations and maintenance funding for the Army, Navy, or Air Force. For example, it would reduce by 2½ percent the $2 billion that the bill gives the Secretary for his ''business and financial management'' transformation proposal—an area that the Government Accountability Office has deemed at ''high-risk'' for waste.

We can't afford not to pass this amendment, and I urge my colleagues to support it.

ASSOCIATION HEALTH PLANS

Mr. KENNEDY. An important new study issued last week finds that exempting association health plans from State oversight will lead to increased health insurance fraud against small businesses and their workers.

The author of the study, Assistant Professor Mila Kofman at Georgetown University, is one of the Nation's leading experts on private health insurance fraud, and the report provides evidence of the potential harm that the pending association health plan legislation will have on patients and working families.

It finds that exempting association health plans from State oversight will ''create a regulatory vacuum'' and have the ''unintended consequence of widespread fraud threatening the coverage and financial security of millions of Americans.''

The report notes the 30-year history of health insurance scams involving associations and multiemployer arrangements after the Congress exempted such arrangements from State oversight in 1974. Widespread fraud resulted from the exemption, and Congress acted to restore State authority and oversight in 1982. In the years when the Federal Government was responsible for oversight of the plans, widespread fraud took place and large numbers of businesses and workers victimized.

Insurance fraud involving such plans continues, but without State oversight and enforcement, the numbers would have been much worse. States have shut down many illegal arrangements, and saved millions of dollars for consumers in recent years. We can't afford to take away State authority now, and give plans broad exemptions from oversight.

According to a study by the Government Accountability Office, the most common way for insurance scams to proliferate is by selling coverage through associations—many of which are the same bona-fide professional and business associations that would be shielded from oversight under this legislation.

The pending bill would create large loopholes and shield plans from oversight. It relies largely on self-reporting and self-regulation, and makes it far more difficult for regulators to shut down fraudulent plans.

The bill's convoluted regulatory structure would also create widespread confusion about who actually regulates association plans—the Federal Government or States, and this confusion will invite scams to proliferate.

We need to make affordable health insurance for working families a top priority, but this study shows the serious consequences of exempting association health plans from State and oversight and enforcement. The result is predictable: mounting medical bills, greater bankruptcy, medical care denied or delayed, and coverage lost. It is wrong for Congress to turn back the clock to the days of widespread fraud against small businesses and their employees by exempting association plans from appropriate oversight and enforcement, and I urge my colleagues not to take this damaging step.

MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. KENNEDY. Mr. President, I strongly support the Medical Device User Fee Stabilization Act of 2005.

The bill makes needed corrections in the Device User Fee Act we passed in 2002. Most important, it extends this worthwhile program beyond September 30. It ensures stable growth for individual user fees by limiting increases to 8.5 percent a year in 2006 and 2007, and it raises the threshold for businesses to be eligible for the reduced small business fees from $30 million to $100 million.

The user fee program has provided much needed support for the Food and Drug Administration over the past 3 years to expedite its review of medical devices. The FDA has improved its ability to review devices more quickly, and laid the groundwork for further progress as well. Unfortunately, however, fees on individual applications have climbed rapidly in the past 3 years—much faster than anticipated.

Our bill maintains this valuable program and limits the rate of growth in fees. It strikes a fair balance between the competing interests of FDA and the various industries. The agency is not guaranteed the growth in fees that it received under the original legislation to meet the need to expedite its reviews. It makes sense to limit fee increases in response to the concern that the fees have climbed too quickly and are discouraging innovation in these valuable devices. That is why we call the bill the User Fee Stabilization Act.

The bill also clarifies the provision in current law on the identification of the makers of single-use medical devices. Adverse event reports should not be inaccurately attributed to the wrong company, and doctors should not be misled about the source of the device.

Since many so-called single-use devices are often reprocessed and used again, the legislation requires reprocessors of single-use devices to identify their role in preparing the device. When the manufacturer of the original device is identified on the device, the reprocessor must do so as well. When the manufacturer of the original device has not done so, the bill permits the use of detachable labels on the package of the reprocessed device, so that the label can be placed in the patient's medical chart.

These provisions will become effective 12 months after the date of enactment, and they are a reasonable compromise of the interests of the FDA, the original manufacturers, and the reprocessors.

I commend Chairman ENZI for his leadership in producing this much-needed legislation, and I welcome the strong, bipartisan support for the bill

in our Health Committee. I urge all my colleagues to support this important legislation, so that this valuable medical device program can continue effectively beyond September 30.

CHANGING LIVES: THE IMPACT OF SPECIAL OLYMPICS

Ms. LANDRIEU. Mr. President, I rise today to say a few words on the impact of Special Olympics. As many of you know, individuals with intellectual disability face an array of challenges in their efforts to secure opportunities to lead quality lives. These challenges affect every aspect of their lives, including their ability to participate in a meaningful way in their communities and society at large.

The Special Olympics were created to address the use of sports as a vehicle for demonstrating the dignity and capability individuals with intellectual disability can achieve. Over the 37 years of Special Olympics history, there is extensive documentation of competition waged, medals won, and barriers overcome around the world. Athletes, families, coaches, volunteers, and spectators have witnessed many small and large miracles through Special Olympics.

One such miracle is Rose Marie Garrett of Baton Rouge, a three-time participant in Special Olympics World games who in 2001 was named Louisiana's Special Olympian of the Year. At age 49, Rose Marie was diagnosed with Dandy-Walker syndrome, a congenital brain malformation that impairs motor development due to a blockage of spinal fluid to the brain. Despite her lifetime of struggle with the physical problems caused by Dandy-Walker syndrome, Rose Marie was able to rise above this barrier and take charge of her life. Not only did she successfully participate in the Special Olympics, but did so while holding a job at the YMCA. However, Rose Marie did not stop her lifetime of hard work with her achievements in the Special Olympics. She has become a strong advocate for this valuable program, and teaches bowling to children, disabled and nondisabled alike. Her message to those working to overcome difficult hurdles is ''Work hard and go for your goal. If at first you don't succeed, try, try again. Never give up. I didn't.

Rose Marie is just one of the many success stories in the Special Olympics. In 2004, they commissioned a study of the impact of Special Olympics programs on the lives of its athletes in the United States. This study included survey research of current and former athletes, coaches, and family members from a representative sample of U.S. athletes and coaches. It is the most comprehensive assessment to date of the impact of the Special Olympics experience on the lives of people with intellectual disabilities. In the Special Olympics Impact Study and the Special Olympics Athlete Participation Survey, we see that Special Olympics has enabled athletes to not only train for sporting events, but also train for life. Through their voices, U.S. Special Olympics athletes have provided Special Olympics with a very positive report card on the impact that Special Olympics has on their lives.

It is my hope that every person faced with intellectual disabilities will have the opportunity some time in their life to participate in the Special Olympics. As exemplified by Rose Marie's experience, overcoming athletic challenges can lead to a successful life. Special Olympics is a program that supports an inclusive and productive society and I look forward to watching what all these individuals will accomplish in the future.

RETIREMENT OF J.J. HAMILTON

Mr. LEAHY. Mr. President, I would like to take this opportunity to publicly congratulate J.J. Hamilton on his retirement as Director of Aviation at the Burlington International Airport.

J.J. and I have been friends since our days together at St. Michael's College, and it has been a great pleasure working with him over the years on aviation, expansion, and economic development issues at the airport in Burlington.

J.J. has been with the airport for 21 years, serving for the past 15 as its top manager. Under his direction, the Burlington airport has been transformed from a sleepy, one-gate operation into an award-winning, 10-gate facility that is a wonderful gateway to our great State of Vermont. The airport has grown to become an important engine in our State's economy.

Perhaps the best words to describe J.J.'s leadership in Burlington are ''measured and responsible.'' As head of Vermont's largest airport, and one that is municipally owned, he has had to delicately balance the urge for large-scale expansion with his financial responsibility to the citizens of Burlington. When opportunities have arisen to attract new air service, J.J. has been careful to make sure that it is sustainable and that the airport grows appropriately to meet the new demand. And when the airport has sought to expand its business offerings, he has worked cooperatively with the neighbors, the National Guard, and the businesses that are based at the airport or that rely on the airport to outline the significance of the development.

I am proud to have worked with J.J. and others to bring the innovative, low-cost air service to Burlington that has fueled record passenger growth at the airport. From JetBlue and Independence Air to the parking expansions to the new gates, J.J. has diligently moved forward not just to compete with the Albanys and Manchesters of the world for passengers, but to make Burlington a destination unto itself.

I ask unanimous consent that a May 11, 2005, Burlington Free Press editorial on J.J.'s accomplishments in Burlington be included at this point in the RECORD.

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

[The Burlington Free Press, May 11, 2005]

BUILDING AN AIRPORT

J.J. Hamilton has a solid 21-year record at the Burlington International Airport, 16 of them as director, transforming a one-gate operation into today's 10-gate facility that generates $12 million in revenues.

The growth at the airport has occurred gradually over the years, at a pace that has met Vermont's needs and changing lifestyles. Along the way, Hamilton has been there to make a public pitch for significant improvements such as expanding the parking garage.

Hamilton has presided over one of the most welcoming and attractive small airports U.S. travelers will ever find. Where else do you find comfortable rocking chairs set up in front of picture windows that look out onto runways and spectacular mountain views? Long lines are rare, and visitors are treated to a taste of Vermont with displays of local art, scenic murals and a well-stocked souvenir shop.

In 1997, the airport's garage was built and main terminal expanded for $19.9 million; a $25 million expansion was launched five years later. The improvements have encouraged additional airlines to use the facility, securing Burlington International's 2002 distinction as the second-fastest-growing airport in the nation.

Decisions by airlines such as People Express in the 1980s and JetBlue and Independence Air in recent years have added to Burlington International Airport's luster.

For many years, Vermonters drove to Manchester, N.H., Albany, N.Y., or Boston for cheaper flights out of New England. Today, with several low-cost carriers operating out of Burlington, the expanded 1,651–space garage is often crowded with travelers choosing their home airport.

This is especially important for a relatively small state like Vermont, where a healthy business climate requires easy, affordable air service—not to mention the revenues linked directly and indirectly to air travel.

Hamilton's decision to step down as director leaves a void at the airport that might be tough to fill for several reasons.

First, his careful stewardship has established a high bar. The airport set a record for the most significant growth period in the airport's history during Hamilton's tenure, with nearly 635,000 people boarding flights last year.

Second, Hamilton's annual salary of $85,885 isn't highly competitive with many similar positions elsewhere in the United States, making it that much harder to recruit the best and brightest to fill his shoes. The director of the Albany International Airport in New York, for example, earns $106,000 annually.

That is not an unusual problem in Vermont, where salaries tend to lag behind those of more urban areas. More often than not, people accept the lower salary in exchange for a higher quality of life. In some cases, out-of-state applicants argue—successfully—for more money.

The city ought to be somewhat flexible with the incoming director's salary, but cautiously so. A high wage doesn't guarantee competence.

Hamilton, 64, has agreed to stay on until his job is filled, and possibly longer. But Vermonters wish him well as he moves on.

Mr. LEAHY. Again, Mr. President, I want to thank J.J. for his many years

of dedicated service to the City of Burlington and its airport. Marcelle and I wish him and Janet all the best in retirement.

PRESIDENTIAL SCHOLARS

Mr. OBAMA. Mr. President, on May 3, 2005, Secretary of Education Margaret Spellings announced the selection of 141 outstanding American high school seniors as the 2005 Presidential Scholars. The Presidential Scholars Program serves to honor outstanding students for their accomplishments in academics or the arts, as well as for their leadership, character and civic contributions to their schools and communities.

The United States Presidential Scholars Program was established in 1964 by Executive order of President Lyndon B. Johnson. The Presidential Scholars Program annually selects one male and one female student from each of the 50 States, the District of Columbia, Puerto Rico, American students living abroad, 15 at-large students, and up to 20 students in the arts. The students are selected on the basis of outstanding scholarship, service, leadership, and creativity through a rigorous selection and review process administered by the Department of Education. Over 5,000 of the Nation's top students have been honored as Presidential Scholars since this prestigious program's founding.

Of the 141 exceptional students recognized from across the United States for 2005, I would especially like to recognize three students from the great State of Illinois for their accomplishments.

I send my congratulations to the following students for their accomplishments in academics: Kelly A. Zalocusky from Belleville High School East in Belleville, IL, and her teacher Philip C. Short; and Edgar P. Woznica from Fenwick High School in Oak Park, IL, and his teacher Ramzi Farran. For her accomplishments in the arts, I would like to congratulate Marcella J. Capron from Loyola Academy in Wilmette, IL, and her teacher Leslie Yatabe.

Please join me in congratulating the 2005 Presidential Scholars for their accomplishments in academics and the arts. I wish them all the best in their future endeavors.

WORLD VETERINARY ASSOCIATION

Mr. BAUCUS. I ask unanimous consent that Senator JEFFORDS'S speech before the World Veterinary Association be printed in the RECORD.

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

Members of the House of Delegates, the World Veterinary Association, other international guests, friends and colleagues . . . I'm honored to be a part of this historic gathering. I'm especially pleased to welcome my fellow veterinarians from around the world and to be addressing those participating in the first gathering of the World Veterinary Association in the United States since 1934.

Seventy-one years ago, the AVMA and the World Veterinary Association met to discuss the hot issues of the day . . . poultry diseases, advances in food animal medicine, food safety and global disease surveillance. Today we are meeting once again and discussing the issues of our day . . . poultry diseases, advances in food animal medicine, food safety and global disease surveillance.

Thre thousand nine hundred seventeen veterinarians attended that 1934 meeting in New York City at the Waldorf Astoria hotel; many from the same countries that are joining us today. To each I extend our most sincere welcome . . . especially to our colleagues from Afghanistan and Iraq . . . I hope that you find this experience to be one of the most memorable of your career.

Well, here we are, 71 years later. And while we may have different languages and customs, different ways communicating with our clients and treating our patients, we have come together once again precisely because we have more in common than ever before. We are united in our quest for a better world and better medicine for both animals and humans. We are united in our concerns, we are unified in our challenges and we are unified in the celebration of our achievements. We are what veterinary medicine is all about.

When I told my wife, Pat, that I was giving this speech, she reminded me of something Muriel Humphrey once told her husband, Hubert, this country's vice president and a favorite son from this great state. She said, ''Hubert, a speech doesn't have to be eternal to be immortal.'' I'll try to remember that.

I come before you today slightly imperfect. As many of you know, I just had a knee replacement.

My recent surgery got me thinking . . . do any of us truly appreciate our knees? Really appreciate the foundation they provide? I know I didn't . . . not until both gave out on me. I quickly came to realize, however, that my knees must work together in unity in order for me to complete the tasks I take for granted. I just assumed they'd provide a solid foundation without much attention from me. I was sadly mistaken.

Paying attention to our profession's basic principles is what I'd like to talk to you about today. We all assume that our professional unity and our rock solid foundation are perpetual. They're not. Without attention and care, our foundation can slowly begin to erode. That's why I am dedicating my presidency to the care and nurturing of our professional unity . . . the essential cornerstone of our great profession.

Traditionally, past AVMA presidents have used this time to present you with a roster of very specific recommendations for new programs and initiatives.Many of those recommendations have resulted in impressive and important changes within the AVMA.

But different times call for different approaches. I come before you today with a total commitment to spending my year at the helm of this great organization working to reaffirm our unity.

As president elect, I've spent much of the past year speaking to a wide variety of veterinary associations and student organizations. In May, when I gave the commencement address at Auburn, I was reminded of my own graduation. I was reminded of my classmates and my professors. Of the long hours and challenges that we faced and survived. I think back to the unity we felt as a class and our coordinated effort to help each other. Doing whatever it took to ensure that each individual met the challenges of the curriculum and graduated.

Unity got us through school . . . and a C+ mean average didn't hurt.

And on our graduation day, we became veterinarians. Not equine veterinarians. Not bovine veterinarians. Not small animal veterinarians. We became veterinarians . . . members of a select group of professionals that dedicate their lives to ensuring the highest standards in animal and public health.

Why is unity more important today than ever before? Aesop said it better than I ever could . . . ''we often give our enemies the means for our own destruction.''

Today our profession is facing challenges, the likes of which we've never seen before. From town hall to Capitol Hill . . . from the classroom to the laboratory . . . from the farm to the dinner table . . . our attention is being pulled in a myriad of directions. In light of those challenges, we must remain focused . . . we must stay united. While we may practice in different disciplines involving different species of animals, we must be one vision, one voice. We must maintain the highest standards in medicine and public health, encouraging and assisting others in accomplishing the same. While we may practice in different parts of the world, we must foster unity with our fellow veterinarians from around the globe. Good medicine knows no boundaries . . . knows no borders. We must cooperate and collaborate with our fellow veterinarians worldwide . . . to make this world a better place for animals and humans, alike.

Has there always been perfect unity within the profession? If you look back in the annals of our convention or in the Journal of the American Veterinary Medical Association, you will see many instances where we did not all agree. We are a diverse profession and there are bound to be differences in opinion. But I would argue that the French essayist, Joubert, was right when he said, ''the aim of argument, or of discussion, should not be victory, but progress.''

Some of the differences our profession is experiencing today may just be a reflection of what is happening to society as a whole.

For example, we've moved away from an agricultural society. In the past 20 years, many of our colleagues have chosen a metropolitan setting, where they concentrate on companion animals. As a result, the number of food animal graduates has slowed to a trickle. The reality, however, is that food animal practitioners are more important to society than ever before. There is an acute shortage of food animal veterinarians during a time when the world is threatened by zoonotic and foreign animal diseases. At the same time, we are experiencing the same crisis level shortages of public health veterinarians. Most new graduates are not choosing a career in this essential segment of veterinary medicine. The profession must find ways to encourage undergraduates to enter food animal and public health practice.

In an attempt to resolve the critical food animal veterinary shortage, AVMA has been working on a number of strategies and initiatives.

For example, as many of you know, the AVMA helped fund a study to estimate the future demand and availability of food supply veterinarians and to investigate the means for maintaining the required numbers.

AVMA also approved and financially supported the development of benchmarking tools for production animal practitioners by the National Commission on Veterinary Economic Issues. These benchmarking tools are designed to provide our current practitioners with help in ensuring that their practices are financially successful. That, in turn, will assist in attracting future veterinarians to food animal practice.

The government relations division of the AVMA is diligently working to convince Congress to provide federal funding for the National Veterinary Medical Service Act. If fully funded, that act could go a long way toward encouraging recent graduates to practice food animal medicine in under-served areas and provide veterinary services to the federal government in emergency situations. Just last month, the Senate Agriculture Appropriations Subcommittee approved $750,000 for a pilot program. We applaud the efforts of Representatives Pickering and Turner . . . and Senators Cochran and Harkin . . . all of whom sponsored the original bill. And I want to thank the Appropriations Subcommittee, especially Senator Brownback for his kind words and commitment to veterinary medicine.

AVMA is also lobbying our federal legislators to pass the Veterinary Workforce Expansion Act . . . an important piece of legislation that will provide us with sorely needed public health and public practice veterinarians. Today's public health practitioners play an invaluable role in U.S. agriculture, food safety, zoonotic disease control, animal welfare, homeland security and international standards and trade. Without an adequate number of public health veterinarians, the wellbeing of our nation—yes, even the world—is at risk. Senator Allard has been invaluable and unwavering in his dedication to moving this act forward through the complicated legislative process. I intend to do everything I can as president to provide support to Senator ALLARD's effort to pass the veterinary workforce expansion act.

On the international education level, AVMA has been committed to the global unity of the profession for decades. The AVMA Council on Education has partnered with Canada since the accreditation system was developed and has accredited six foreign veterinary colleges. We are working with six additional schools. We're extremely proud of those colleges. As more inquiries come forward, it's self evident that the world looks to us as the gold standard in educational goals and expectations.

At the same time, I will be supporting the efforts of our specialty organizations to attract and train the new practitioners they need. Currently, there are 20 veterinary specialty organizations comprising 37 distinct areas of expertise under the AVMA umbrella.

The AVMA economic report on veterinarians and veterinary practices has revealed a substantial difference between the incomes of specialists and non-specialists practicing in similar disciplines. I will, as president, encourage the development of additional in-depth financial surveys that, hopefully, will motivate our undergraduates to further their education and achieve specialty status . . . thus helping ensure that public demand for advanced veterinary medical services are being met while, at the same time, increasing our economic base.

Hopefully, these additional specialists will serve as a resource for our veterinary colleges who are becoming increasingly understaffed.

In the past fifteen years, we've seen a shift in the demographics of our profession. I'll bet there were plenty of raised eyebrows when McKillips College, in 1903, and the Chicago Veterinary College, in 1910, graduated our country's first female veterinarians. It's hard to believe that as recently as 1963 the profession included only 277 female veterinarians.

We're proud of the fact than an increasing number of our graduates are women. Their contributions and leadership have strengthened our profession. However, the recent AVMA-Pfizer study confirmed lower mean female incomes within the profession. Now is the time to explore solutions to that problem, and I will do everything in my power to ensure that this issue is thoroughly investigated and addressed.

To achieve unity, I firmly believe that we must be inclusive, not exclusive. The public has always been well served by the diversity in our practice areas. Now, we must diversify our membership. The AVMA . . . with more than 72,000 members representing 68 constituent organizations in the House of Delegates . . . must now seek to represent every race, creed and color. As a profession, we must mirror the public, and they us. We must become a profession more reflective of the population we serve.

Over thirty years ago, Dr. H.J. Magrane, then president of the AVMA, spoke often and passionately about the need for inclusion and equality in our profession. As a profession, we have still not made the advances in diversity that are necessary.

As the great social scientist Margaret Mead said . . . . ''in diversity . . . we will add to our strength.''

In order to achieve our diversity goals, we must initiate both practical and creative ideas to arrive at an enriched membership. It's up to us . . . all of us . . . to reach out to young people and to nurture their interests and talents so that we become the shining example of professional diversity. We need to be involved in youth groups, in churches, and in our public schools . . . and united in our quest, so that others say, ''we must emulate the AVMA.''

Once in veterinary school, our students . . . all our students . . . need to know that we, as a profession, are there to mentor and to help them through the special challenges they face. None of us got to where we are today without at least one special person . . . one special veterinarian . . . who took us under his or her wing and proved to be our own, personal cornerstone. We can do no less for those who are striving today to become members of our profession.

In what programs is the AVMA currently involved concerning diversity? First, at its April 2005 meeting, the Board approved the establishment of a Task Force on Diversity. That task force will recommend steps that we must take to meet our goals in diversity.

But here's something you can do in the immediate future. Tomorrow, our convention will offer a full day diversity symposium, including an appearance by Doctor Debbye Turner, veterinarian, former Miss America and contributor to the CBS early show. I hope many of you will plan on spending part of your day attending these important meetings, if time permits.

Diversity will also be an integral part of the 2006 Veterinary Leadership Conference. Each of these opportunities is designed to help us achieve the diversity we've talked about for so long.

So what's on our want list for 2005? As I've mentioned, critical shortages exist in food animal and public health veterinarians. But we also are desperately in need of teachers and researchers. We need policy experts and homeland security professionals. We need legislative leaders, and we need veterinarians who are visionaries and who can lead us in this era of globalization. There exists such critical shortages in so many areas that some days I wonder if our small numbers can, in fact, make a difference.

But then I am asked to speak somewhere. And I look at the enthusiastic faces in my audience . . . established veterinarians who are deeply involved in their state and local associations, students who live and breathe only to count off the days until they can touch their dream, high school students with straight A's who are anxious to know what else they have to do to make it into veterinary school, third graders with a commitment to animals that rivals the grit and determination of a Jack Russell terrier . . . and I know that we will not only survive . . . but thrive.

As I've said, my presidency will be dedicated to re-energizing the unity that has always been our strength and foundation. As another president from the northeast, John F. Kennedy, once said, ''Let us not be blind to our differences—but let us also direct attention to our common interests.''

Ladies and gentlemen, our common interests are so much greater than our differences. Like the society and world around us, we are changing. And change is never easy. But with your help, and our combined dedication and attention to preserving and protecting our unity of purpose, we will thrive and remain one of the most admired and respected professions in the world.

During the coming year, I will be looking to you for help. I will listen . . . and I will participate. I will follow your lead . . . and I will lead to enlighten. I implore each of you to participate in this great organization and make it your own. For you are the teachers . . . you are the visionaries . . . you are veterinary medicine.

Thank you.

NATIONAL HERITAGE FELLOWSHIP

Mr. OBAMA. Mr. President, today I rise to congratulate an Illinois resident who has received national recognition for her contributions to the American artistic community. Ms. Albertina Walker of Chicago, the ''Queen of Gospel Music,'' has been selected to receive a National Heritage Fellowship by the National Endowment for the Arts, NEA.

The highest honor in the field of folk and traditional arts, these fellowships are awarded to 12 outstanding artists each year to recognize their contributions to their fields. They are selected based on their artistic excellence and cultural authencity.

National Heritage Fellowships are not open to application but are based on nominations from members of the public. Begun in 1982, these fellowships consist of a $20,000 grant and are part of the NEA's mission of supporting excellence in the arts, both new and traditional. Previous National Heritage Fellowship recipients have included such artists as B.B. King and John Lee Hooker.

The Grammy-award winning Ms. Walker is a native of Chicago and has been involved in gospel music for over 70 years. She has recorded over 60 albums and is an active member of West Point Missionary Baptist Church.

I thank the National Endowment for the Arts for its recognition of Ms. Walker's outstanding work and once again applaud Ms. Walker for her achievement.

ADDITIONAL STATEMENTS

125TH ANNIVERSARY OF BUFFALO, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to recognize a community in

North Dakota that will be celebrating its 125th anniversary. On July 14–17, the residents of Buffalo gathered to celebrate their community's history and founding.

Buffalo is a vibrant and active community in eastern North Dakota with a population of more than 200 people. Despite its small size, Buffalo holds an important place in North Dakota's history. Buffalo, like most small towns in North Dakota, got its start when the railroad stretched throughout the State. In 1883, the postmaster, Charles A. Wilder, named the community Buffalo in honor of the secretary of the Northern Pacific Railway, who was born in Buffalo, NY.

Buffalo has a very active historical society that has worked to restore two unique properties, the Old Stone Church and the 1916 High School, both of which are listed on the National Register of Historic Places. The restoration of the Old Stone Church, in particular, has received national attention. In 1999, it was awarded a National Trust for Historic Preservation Honor Award. Buffalo is the only community in North Dakota to ever receive the award, and it is the smallest community in the Nation to ever receive the award. The restoration of this prairie church united the community and preserved an important piece of our State's history. The residents of Buffalo can be extremely proud of their efforts to preserve these historic places.

For those who call Buffalo home, it is a comfortable place to live, work, and play. Today, Buffalo is home to a café, gas station and repair shop, bank, day care, heritage museum and much more. The community had a wonderful celebration that included an all school reunion, parade, car show, street dance, fireworks, and games.

I ask the Senate to join in me congratulating Buffalo, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Buffalo and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Buffalo that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Buffalo has a proud past and a bright future.●

TRIBUTE TO THE TOWNS OF MOORESTOWN AND CHATHAM, NEW JERSEY

● Mr. CORZINE. Mr. President, I rise today to pay tribute to Moorestown and Chatham, NJ, on being named two of the best places in the country to live. It is only fitting that an acclaimed national magazine recognized what I have always known—New Jersey is a great State in which to live.

Moorestown and Chatham received these top honors based upon the following criteria: business climate, economic well being, quality of life, and a positive environment in which to work and raise a family. New Jersey's tourism industry, scenic beauty, low crime rate, high-quality education, community spirit, parks and recreation, make my State attractive for many families and businesses.

Moorestown, a 15-square-mile, tree-lined, suburban town, was named the No. 1 place to live in America. This lovely little hamlet, located in Burlington County, prides itself on its historic buildings, charming customs, and social conscience. One of its nicest traditions is its ''Random Act of Kindness Week,'' a time when its citizens are encouraged to practice the virtue of good deeds, not only for the neediest, but for their next-door neighbors as well. Only moments away from Philadelphia, it has a booming economy with numerous manufacturing facilities, high-tech firms, and defense contractors. Moorestown is also home to many cultural arts venues and recreational facilities. As many of the families that have lived there for generations will tell you, this town is truly the perfect place to raise a family and call home.

One of our other great towns, Chatham, NJ, was ranked the ninth most desirable place to live in the country. This small wonder of Morris County, sits on the banks of the Passaic River, and is home to many of the historic manufacturing plants of the late 1800s and early 1900s. Today, Chatham relies on many major technology and communications firms to help boost this small metropolis to the forefront of the Nation. Chatham is a great place to raise a family as well, with its many fine schools and close proximity to New York City. It is also home to a national wildlife refuge, which residents fought to protect from developers.

It is no surprise that my home State of New Jersey is the only place with two towns in the top 10 list. Moorestown and Chatham both deserve these high honors. I applaud the local officials, enterprising business men and women, and the committed citizens of these great towns. I am proud to represent them in the U.S. Senate, and wish them all the best in the future.●

A TRIBUTE TO THE AFRICAN METHODIST EPISCOPAL CHURCH

● Mr. BROWNBACK. Mr. President, it gives me great pleasure to rise today and to honor the work of the Women's Missionary Society of the African Methodist Episcopal Church, whose annual conference will be held in my home State of Kansas. As you may know, the African Methodist Episcopal Church has a magnificent and marvelous history in this country. The A.M.E. Church was the first African American Church founded in this Nation. Borne out of the struggle to worship our almighty and benevolent Father without persecution, the A.M.E. Church was founded in order that African Americans could worship freely. And unlike the churches of their time, the co-founder, Bishop Richard Allen, insured that any person regardless of race, creed, or color could worship in church.

It is with that spirit and the spirit of benevolence toward one another that the Women's Missionary Society was formed. Through the vision of Mrs. Sarah Allen, the wife of Bishop Richard Allen, there was formed the Women's Missionary Society of the African Methodist Episcopal Church in an effort to mobilize and encourage women in the area of missions. Today the missionary society is still committed to spreading the principles of Christian love and boasts a membership of over 800,000 worldwide. It is their charge and duty to serve God in all they do and to assist in the progression of serving all people worldwide.

Indeed, the Women's Missionary Society has a wonderful 130 year history within the A.M.E. Church. In early 1900s the Kansas/Nebraska Conference Branch Women's Missionary Society was formed. At this time, Kansas/Nebraska conference began to serve and meet the needs of the church and the community. During their 130 year history, the Missionary Society encountered many social challenges. And holding true to their legacy, they learned to adjust, adapt, and to be of service to the A.M.E. Church and the African American community. As a conference, they sponsor and hold workshops and seminars to educate the A.M.E. Church and the community on social issues that affect the Black community daily.

The Kansas/Nebraska Missionary Society has had several Episcopal supervisors who met the challenges of mission with the A.M.E. Church and the African American community in general. Today, the missionary society has opened a new chapter of missions with a Supervisor who has a global mission to serve abroad as well as at home, Reverend Dr. Cecelia Williams Bryant, who is affectionately known as ''Rev. C.''

Holding true to the A.M.E. Church legacy, Rev ''C'' is a true visionary. Under the direction of Rev. ''C,'' the missionary society will create opportunities for those in need, obtain resources for the changing needs and work to address the concerns of people throughout the world. They will also offer aid and assistance to women's organizations throughout the world as well. They also plan to pray and enthusiastically send the message throughout the Nation and the world that prayer will and can make a difference.

On the evening of September 6, 2005, at St. John African Methodist Episcopal Church, Topeka, KS, the Kansas/Nebraska Conference Branch Women's Missionary Society of the African Methodist Episcopal Church will proclaim ''The Healing of the Nations'' as they explore and tell the story of the women in the Democratic Republic of the Congo, India and the Boothheel of Missouri.

Mr. President, it is quite evident that the Kansas/Nebraska Women's Missionary Society is ready to accept the challenges to move forward and continue to serve this Nation and the world in the areas of missions.●

HONORING THE COMMUNITY OF COLMAN, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the town of Colman, South Dakota. On August 13, 2005, Colman citizens celebrate their community's proud past as well as their hope for a promising future.

Located in Moody County, Colman is a small community nestled amongst the fertile farmland of eastern South Dakota. The town got its start with the help of the railroad, specifically the Milwaukee line, as it made its way into the western United States. Platted in 1880, Colman was originally named Allenson, in honor of the Allen family who donated the town site in 1880. Not long thereafter, however, it was renamed Colman, honoring the town's prosperous Colman Lumber Company.

Colman experienced a great deal of economic prosperity in the early 20th century. Although only a fraction of the businesses Main Street once boasted are still in operation, it is clear Colman was a lively, self-sufficient city with a variety of goods and services to offer. The bustling community included a grain elevator, a flourishing mill, both a dairy and dairy delivery service, a trucking service, a doctor, a weekly newspaper, and a theater that showed movies every night of the week. One of Colman's oldest businesses is the Farmers Cooperative Elevator, which is still in use today. Although it was established in 1898, the structure was destroyed and had to be rebuilt in 1941. Additionally, Colman's first school was a one-room building near the western outskirts of the town.

On January 28, 1901, the first issue of The Colman Argus was published by Bert H. Berry. In April of that year, Berry sold the weekly paper to F.F. French, who owned and edited it until his death in 1931. French's son, F. Philo French, continued to print the publication for the next 26 years, and then passed it on in 1957 to his widow, Lulu French, who eventually sold the paper in 1971, upon her retirement.

In the last three decades, Colman has evolved into a peaceful and quiet community that is great for retirees, those raising children, and everyone in between. The curtailment of the railroad, in addition to the improvement of roads and alternate routes that sidestepped Colman, caused people to travel to larger towns in the State to conduct their business. Nevertheless, technology and progress can never touch the firm resolve and remarkable work ethic that is characteristic of the great people of this country's heartland. The innovation and determination of the individuals who had the courage to make a home for themselves on the plains of the Dakotas serves as inspiration to all those who believe in the honest pursuit of their dreams. Colman's proud 560 residents celebrate their city's vibrant 125 year history and the legacy of the pioneer spirit on August 13th, 2005.●

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1797. An act to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

H.J. Res. 59. Joint resolution expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

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. 181. Concurrent resolution supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes.

At 1:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''.

The message also announced that the House disagree to the amendments of the Senate to the bill H.R. 2985 making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. LEWIS of California, Mr. KINGSTON, Ms. GRANGER, Mr. DOOLITTLE, Mr. LAHOOD, Mr. OBEY, Mr. HOYER, and Mr. MORAN of Virginia.

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill H.R. 2361 making appropriations for the Department of the Interior, environment, and related agencies for fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. TAYLOR of North Carolina, Mr. LEWIS of California, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. ISTOOK, Mr. ADERHOLT, Mr. DOOLITTLE, Mr. SIMPSON, Mr. DICKS, Mr. OBEY, Mr. MORAN of Virginia, Mr HINCHEY, Mr. OLVER, and Mr. MOLLOHAN.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 181. Concurrent resolution supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1797. An act to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3177. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the 2004 Annual Report of the National Institute of Justice; to the Committee on the Judiciary.

EC–3178. A communication from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, a report relative to the financial condition of the American Legion as of December 31, 2004; to the Committee on the Judiciary.

EC–3179. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Authority for Practitioners To Dispense or Prescribe Approved Narcotic (Opioid) Controlled Substances for Maintenance or Detoxification Treatment'' (RIN1117–AA68) received on July 21, 2005; to the Committee on the Judiciary.

EC–3180. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Clarification of the Exemption of Sales by Retail Distributors of Pseudoephedrine and Phenylpropanolamine Products'' (Docket No. DEA–239T) received on July 21, 2005; to the Committee on the Judiciary.

EC–3181. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Establishment of the High Valley Viticultural Area (2003R–361P)'' ((RIN1513–AA79)(T.D. TTB–30)) received on July 21, 2005; to the Committee on the Judiciary.

EC–3182. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Establishment of the Alexandria

Lakes Viticultural Area (2002R–152R)'' ((RIN1513–AA45)(T.D. TTB–29)) received on July 21, 2005; to the Committee on the Judiciary.

EC–3183. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Establishment of the Horse Heaven Hills Viticultural Area (2002R–103P)'' ((RIN1513–AA91)(T.D. TTB–28)) received on July 21, 2005; to the Committee on the Judiciary.

EC–3184. A communication from the Deputy Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Administrator for Administration and Resources Management, received on July 21, 2005; to the Committee on Environment and Public Works.

EC–3185. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Administrator for Water, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3186. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination confirmed for the position of General Counsel, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3187. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Administrator, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3188. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator for Enforcement and Compliance Assurance, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3189. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Deputy Administrator, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3190. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a change in previously reported information and the discontinuation of service in the acting role for the position of Assistant Administrator for Solid Waste and Emergency Response, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3191. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of the designation of an acting officer and a change in previously submitted reported information for the position of Assistant Administrator for Research and Development, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3192. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a change in previously submitted reported information and the discontinuation of service in the acting role for the position of Assistant Administrator for Prevention, Pesticides and Toxic Substances, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3193. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Export and Import of Nuclear Equipment and Material: Nuclear Grade Graphite'' (RIN3150–AH51) received on July 21, 2005; to the Committee on Environment and Public Works.

EC–3194. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: VSC–24 Revision'' (RIN3150–AH70) received on July 21, 2005; to the Committee on Environment and Public Works.

EC–3195. A communication from the Under Secretary of Defense for Acquisition, Technology and Logistics, transmitting, pursuant to law, the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for Fiscal Year 2006, and revisions to the Fiscal Year 2005 AMP; also included are AMPs for Fiscal Years 2007 through 2010; to the Committee on Armed Services.

EC–3196. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of vice admiral; to the Committee on Armed Services.

EC–3197. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–3198. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–3199. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of general; to the Committee on Armed Services.

EC–3200. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (6 subjects on 1 disc beginning with ''Inquiry Response on Rock Island Questions and Request for Clarification'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3201. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (8 subjects on 1 disc beginning with ''DoD Response to BRAC Commission's Questions for the Record Resulting from the July 18, 2005, Hearing'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3202. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Geographic Use of the Term 'United States' '' (DFARS Case 2001–D003) received on July 21, 2005; to the Committee on Armed Services.

EC–3203. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Contractor Access to Sensitive Information'' (RIN2700–AC60) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3204. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revision of Search and Examination Fees for Patent Cooperation Treaty Applications Entering the National Stage in the United States'' (RIN0651–AB84) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3205. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Requirements to Receive a Reduced Fee for Filing an Application through the Trademark Electronic Application System'' (RIN0651–AB88) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3206. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Licensing Policy for Entities Sanctioned under Specified Statutes; License Requirement for Certain Sanctioned Entities; and Imposition of License Requirement for Tula Instrument Design Bureau'' (RIN0694–AD24) received on July 21 2005; to the Committee on Commerce, Science, and Transportation.

EC–3207. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Final Rule Amending the PSP Emergency Closure'' (RIN0648–AT51) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3208. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 15'' (RIN0648–AS53) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3209. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Amendment 10 to Alaska Scallop FMP'' (RIN0648–AS90) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3210. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning'' (RIN0648–AT48) received on July 21,

2005; to the Committee on Commerce, Science, and Transportation.

EC–3211. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Halibut Fisheries; Oregon Sport Fisheries; Temporary Rule; Inseason Adjustment'' (I.D. No. 061605B) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3212. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments'' (I.D. No. 062705B) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3213. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Adjustment of the Quarter III Quota Allocation for Loligo Squid'' (I.D. No. 062205A) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3214. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2005 Trip Authorization for Closed Area II Yellowtail Flounder Special Access Program'' (I.D. No. 030705D) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3215. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Closure of the Fulltime Tier 2 Permit Category for the Tilefish Fishery for Fishing Year 2005'' (I.D. No. 061705B) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3216. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Prohibiting Directed Fishing for Rock Sole in the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 062705A) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3217. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder; Summer Flounder Fishery; Commercial Summer Flounder Quota Transfer from Rhode Island to Other States'' (I.D. No. 061505C) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3218. A communication from the Fishery Policy Analyst, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement 2005 Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries'' (RIN0648–AS21) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3219. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2005 Management Measures'' ((RIN0648–AS58) (I.D. No. 042505B)) received on July 21 2005; to the Committee on Commerce, Science, and Transportation.

EC–3220. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications; Pacific Sardine Fishery'' ((RIN0648–AS17) (I.D. No. 112404B)) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1281. A bill to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010 (Rept. No. 109–108).

By Mr. BOND, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 3058. A bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109–109).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Henrietta Holsman Fore, of Nevada, to be an Under Secretary of State (Management).

*Josette Sheeran Shiner, of Virginia, to be an Under Secretary of State (Economic, Business, and Agricultural Affairs).

*Karen P. Hughes, of Texas, to be Under Secretary of State for Public Diplomacy, with the rank of Ambassador.

*Kristen Silverberg, of Texas, to be an Assistant Secretary of State (International Organization Affairs).

*Jendayi Elizabeth Frazer, of Virginia, to be an Assistant Secretary of State (African Affairs).

*Henry Crumpton, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

*James Cain, of North Carolina, to be Ambassador to Denmark.

Nominee: James Palmer Cain.

Post: U.S. Ambassador to the Kingdom of Denmark.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. James P. Cain: $865.00, 1/2005, N.C. Republican Party; $300.00, 7/2004, N.C. Republican Party; $199.00, 3/32004, N.C. Republican Party; $500.00, 11/2003, N.C. Republican Party; $2,000.00, 7/2003, Bush/Cheney '04; $1,0000.00, 4/2003, N.C. Republican Party; $1,000.00, 4/2003, Burr for U.S. Senate; $1,000.00, 11/2002, N.C. Republican Party; $1,000.00, 11/2002, Dole N.C. Victory Committee; $1,000.00, 11/2002, Dole for U.S. Senate; $250.00, 10/2002, Grant for Congress; $100.00, 2/2002, Grant for Congress; $1,000.00, 1/2002, Dole for U.S. Senate; $500.00, 10/2001, N.C. Republican Party; $100.000, 11/2000, Bush Cheney Recount Fund; $1,000.00, 6/2000, Shuster for Congress.

2. Helen R. Cain—wife of nominee: $1,000.00, 5/2004, Broyhill for Congress; $2,000.00, 7/2003, Bush/Cheney '04; 1,000.00, 6/2000, Shuster for Congress.

3. Anne C. Cain—Age 15, N/A; Laura M. Cain—Age 12, N/A.

4. E. Lee and Patricia L. Cain—parents of nominee: $100.00, 11/2004, Richard Burr—Victory '04; $500.00, 92004, N.C. Republican Party; $10.00, 9/2004, NRCC; $15.00, 8/2004, NRCC; $25.00, 7/2004, NRSC; $15.00, 7/2004, New Republican Majority Fund; $2,000.00, 7/2004, RNC Presidential Trust; $25.00, 6/2004, Republican National Committee; $25.00, 6/2004, NRSC; $20.00, 6/2004, ARMPAC; $25.00, 2/2004, NRCC; $50.00, 2/2004, Republican National Committee; $25.00, 2/2004, N.C. Republican Executive Committee; $50.00, 2/2004, Republican National Committee; $25.00, 12/2003, Republican National Committee; $1,000.00, 10/2003, Bush/Cheney '04; $250.00, 10/2003, Ed Broyhill for Congress; $250.00, 10/2003, Jay Helvey for Congress; $1,000.00, 7/2003, Bush/Cheney '04; $25.00, 10/2002, Friends of Katherine Harris; $25.00, 10/2002, Republican Party of Florida; $1,000.00, 9/2002, Dole for Senate; $15.00, 12/2001, Republican National Committee; $1,000.00, 12/2001, Dole for Senate; $50.00, 10/2001, Republican National Committee; $25.00, 8/2001, Republican Presidential Task Force; $35.00, 7/2000, Bush for President; $25.00, 7/2000, Republican National Committee.

5. Arthur and Ethel Jones (maternal)—deceased; Palmer Dewey and Aretha Cain (paternal)—deceased.

6. Charles and Anne (Archibald) Cain: $2,000.00, 11/2003, Bush/Cheney '04.

Patrick and Sarah (Cross) Cain: none.

7. Nominee does not have any sisters: n/a.

*Alan W. Eastham, Jr., of Arkansas, to be Ambassador to the Republic of Malawi.

Nominee: Alan W. Eastham Jr.

Post: Lilongwe.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: Carolyn L. Eastham: none.

3. Children and Spouses: Mark A. Eastham: none.

Michael S.G. Eastham: none.

4. Parents: Alan W. Eastham—deceased; Ruth C. Eastham—deceased, 7/2004, none.

5. Grandparents: Thomas W. Eastham—deceased; Annie J. Eastham—deceased; Dewey T. Clayton—deceased—; Ruby P. Clayton—deceased.

6. Brothers and Spouses: Thomas C. Eastham—none; Jenny Lea Eastham—none; Craig L. Eastham—none; Dawn Deane—none.

7. Sisters and Spouses: none.

*Katherine Hubay Peterson, of California, to be Ambassador to Republic of Botswana.

Nominee: Katherine Hubay Peterson.

Post: Gaborone, Botswana.

The following is a list of all members of my immediate family and their spouses. I

have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: (Not applicable).

3. Children and Spouses: (Not applicable).

4. Parents: Paul Hubay (father)—deceased, 1/93; Ruth Davey Hubay (mother)—none.

5. Grandparents: Frederick Norton Davey and Ruth Johnson (both deceased); Joseph Hubay and Katherine Melnyk Hubay (both deceased).

6. Brothers and Spouses: (Not applicable).

7. Sisters and Spouses: Davey Hubay (divorced) $50.00, October 2004, Democratic National Committee.

*Michael Retzer, of Mississippi, to be Ambassador to the United Republic of Tanzania.

Nominee: Michael L. Retzer.

Post: Ambassador to the Republic of Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $4,000, 4/1/05, Mississippi Republican Party; $25,000, 5/2/05, Republican National Party (RNC); $5,000; 5/21/05, Haley Barbour for Governor; $200, 5/31/05, Trent Lott for Mississippi.

Nominee: Michael L. Retzer.

Post: Ambassador to the Republic of Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Donee, date, and amount:

1. Self: $78,310.00: Ashcroft 2000, 08/27/2000, $1,000.00; Responsibility and Freedom Work PAC (RFWPAC); 10/11/2002, $1,000.00; 07/14/2003, $1,000.00; Trent Lott for Mississippi, 11/23/2004, $2,000.00; 11/23/2004, $2,000.00; John Thune for U.S. Senate, 09/30/2004, $2,000.00; Martinez for Senate, 10/01/2004, $2,000.00; Lisa Murkowski for U.S. Senate, 10/08/2004, $2,000.00; David Vitter for U.S. Senate, 09/30/2004, $2,000.00; Mississippi Republican Party, 02/02/2000, $1,000.00; 08/09/2000, $210.00; 11/29/2000, $850.00; 03/21/2001, $1,000.00; 09/18/2001, $4,000.00; 02/24/2003, $1,000.00; 05/16/2003, $2,000.00; 06/06/2003, $1,000.00; 06/18/2004, $5,000.00; Dunn Lampton for Congress, 03/25/2000, $1,000.00; 03/25/2000, $1,000.00; Committee to Elect Clinton B. Lesueur, 09/28/2001, $250.00; 05/04/2002, $500.00.

2. Spouse: N/A

3. Children and Spouses: Michael Jr., Bush-Cheney '04 INC, 6/20/2003, $2,000.00.

Kathryn, Alexander for Senate, 9/05/2002, $1,000.00.

4. Parents: Karl & Betty Retzer.

5. Grandparents: All deceased—Ruth Retzer, 1995; William Retzer, 1960; C.L. Crider, 1956; Ruth Crider, 1971.

6. Brothers and Spouses: Bill Retzer, Doug OSE for Congress, 5/16/2000, $1,000.00.

Jere Retzer.

7. Sisters and Spouses: none.

*Gillian Arlette Milovanovic, of Pennsylvania, to be Ambassador to the Republic of Macedonia.

Nominee: Gillian Arlette Milovanovic.

Post: Ambassador to Macedonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Zlatibor Radmilo Milovanovic—none other than IRS form one dollar check off.

3. Children and Spouses: Alexandra Helene Milovanovic—none.

Anna Michele Milovanovic—none.

4. Parents: Andre Pesche—deceased, none.

Annette Roussel-Pesche—deceased, may have given something but I don't have any information.

5. Grandparents: Mary and Meyer Rosenson—deceased, none I know of.

Germaine and Robert Pesche—deceased, none.

Brothers and Spouses: no brothers.

Sisters and Spouses: no sisters.

By Mr. ROBERTS for the Select Committee of Intelligence.

*Janice B. Gardner, of Virginia, to be Assistant Secretary for Intelligence and Analysis, Department of the Treasury.

*Benjamin A. Powell, of Florida, to be General Counsel of the Office of the Director of National Intelligence.

*John S. Redd, of Georgia, to be Director of the National Counterterrorism Center, Office of the Director of National Intelligence.

*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. MCCAIN (for himself, Mr. DORGAN, and Mr. JOHNSON):

S. 1480. A bill to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian tribes and tribal corporations; considered and passed.

By Mr. MCCAIN:

S. 1481. A bill to amend the Indian Land Consolidation Act to provide for probate reform; considered and passed.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1482. A bill to amend the Act of August 9, 1955, to provide for binding arbitration for Gila River Indian Community Reservation Contracts; considered and passed.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1483. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to modify the definition of ''Indian student count''; considered and passed.

By Mr. REID (for himself and Mr. DORGAN):

S. 1484. A bill to amend the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990; considered and passed.

By Ms. CANTWELL (for herself and Mr. DORGAN):

S. 1485. A bill to amend the Act of August 9, 1955, to extend the authorization of certain leases; considered and passed.

By Mr. SANTORUM:

S. 1486. A bill to extend the suspension of duty on Baytron M; to the Committee on Finance.

By Mr. SANTORUM:

S. 1487. A bill to suspend temporarily the duty on Sorafenib; to the Committee on Finance.

By Mr. VITTER (for himself, Mr. COBURN, Mr. INHOFE, Mr. CRAPO, Mr. THUNE, Mr. LOTT, Mr. BUNNING, Mr. BURNS, and Mr. ENSIGN):

S. 1488. A bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes; to the Committee on Foreign Relations.

By Mrs. CLINTON (for herself and Mr. DEWINE):

S. 1489. A bill to amend the Public Health Service Act with regard to research on asthma, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. WARNER):

S. 1490. A bill to amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1491. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1492. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay Watershed; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1493. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1494. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to establish programs to enhance protection of the Chesapeake Bay, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself and Mr. COBURN):

S. 1495. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAPO (for himself, Mrs. LINCOLN, Mr. LOTT, and Mr. NELSON of Nebraska):

S. 1496. A bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1497. A bill to require the Secretary of the Interior to provide incidental take permits to public electric utilities that adopt

avian protection plans; to the Committee on Environment and Public Works.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1498. A bill to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; to the Committee on Energy and Natural Resources.

By Mr. BUNNING (for himself and Mr. MCCONNELL):

S. 1499. A bill to amend the Federal Power Act to provide for competitive and reliable electricity transmission in the Commonwealth of Kentucky; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 1500. A bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and to conduct and coordinate a research program on hormone disruption, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS:

S. 1501. A bill to develop a program to acquire interests in land from eligible individuals within the Crow Reservation in the State of Montana, and for other purposes; to the Committee on Indian Affairs.

By Mr. CORZINE:

S. 1502. A bill to clarify the applicability of State law to national banks and Federal savings associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, and Mr. DEMINT):

S. 1503. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes; to the Committee on Finance.

By Mr. SPECTER (for himself, Mr. CORZINE, Mr. LAUTENBERG, Mr. SCHUMER, and Ms. SNOWE):

S.J. Res. 21. A joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 211. A resolution designating August 19, 2005, as ''National Dyspraxia Awareness Day'' and expressing the sense of the Senate that all Americans should be more informed of dyspraxia; to the Committee on the Judiciary.

By Mr. BROWNBACK:

S. Res. 212. A resolution expressing the sense of the Senate that the Federal Trade Commission should investigate the publication of the video game ''Grand Theft Auto: San Andreas'' to determine if the publisher deceived the Entertainment Software Ratings Board to avoid an ''Adults Only'' rating; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 213. A resolution to authorize representation by the Senate Legal Counsel in the case of Keyter v. McCain, et al; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 214. A resolution to authorize representation by the Senate Legal Counsel in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al; considered and agreed to.

By Ms. LANDRIEU:

S. Con. Res. 47. A concurrent resolution paying tribute to the Africa-America Institute for its more than 50 years of dedicated service, nurturing and unleashing the productive capacities of knowledgeable, capable, and effective African leaders through education; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 258

At the request of Mr. DEWINE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 258, a bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes.

S. 385

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 385, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Wisconsin (Mr. KOHL), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. DAYTON) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 397

At the request of Mr. CRAIG, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 485

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 485, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 516

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 516, a bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 627

At the request of Mr. HATCH, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), the Senator from Illinois (Mr. OBAMA) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 749

At the request of Mr. LEVIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 749, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes.

S. 769

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 781

At the request of Mr. CRAPO, the names of the Senator from Montana (Mr. BURNS) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 781, a bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 969

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 969, a bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1126

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1126, a bill to provide that no Federal funds may be expended for the payment or reimbursement of a drug that is prescribed to a sex offender for the treatment of sexual or erectile dysfunction.

S. 1129

At the request of Mr. LUGAR, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1129, a bill to provide authorizations of appropriations for certain development banks, and for other purposes.

S. 1171

At the request of Mr. SPECTER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1171, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1183

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1183, a bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages.

S. 1289

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1289, a bill to provide for research and education with respect to uterine fibroids, and for other purposes.

S. 1343

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1343, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1355

At the request of Mr. ENZI, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1355, a bill to enhance the adoption of health information technology and to improve the quality and reduce the costs of healthcare in the United States.

S. 1367

At the request of Mr. ALEXANDER, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1367, a bill to provide for recruiting, selecting, training, and supporting a national teacher corps in underserved communities.

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1367, supra.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1418

At the request of Mr. ENZI, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1419, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1462

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. CON. RES. 44

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to honor Constantino Brumidi on the 200th anniversary of his birth.

S. RES. 177

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 177, a resolution encouraging the protection of the rights of refugees.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

AMENDMENT NO. 1348

At the request of Mrs. MURRAY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 1348 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1349

At the request of Mrs. MURRAY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1349 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1401

At the request of Mr. KENNEDY, the names of the Senator from Maine (Ms. SNOWE), the Senator from Rhode Island (Mr. REED), the Senator from Alabama (Mr. SESSIONS), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of

amendment No. 1401 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1410

At the request of Mrs. FEINSTEIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 1410 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1435

At the request of Ms. STABENOW, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 1435 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1437

At the request of Mr. MCCAIN, the names of the Senator from Virginia (Mr. WARNER) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of amendment No. 1437 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1444

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 1444 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1453

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 1453 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1477

At the request of Mr. COLEMAN, his name was added as a cosponsor of amendment No. 1477 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1529

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 1529 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

AMENDMENT NO. 1557

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 1557 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. ALLEN, and MR. WARNER):

S. 1490. A bill to amend the Federal Water Pollution Control Act to require environmental—accountability and reporting and to reauthorize the Chesapeake Bay Program; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1491. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1492. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay Watershed; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1493. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1494. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to establish programs to enhance protection of the Chesapeake Bay, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SARBANES. Mr. President, today I am introducing a package of five measures to sustain and indeed renew the Federal commitment to restoring the water quality and living resources of the Chesapeake Bay watershed. Joining me in sponsoring one or more of these measures are my colleagues from Virginia, Pennsylvania, and Maryland, Senators WARNER, ALLEN, MIKULSKI, and SANTORUM.

In his 1984 State of the Union message, President Ronald Reagan called the Chesapeake Bay a ''special national resource'' and pledged $10 million a year for 4 years to ''begin the long, necessary effort to clean up'' the Bay. Today, despite more than 2 decades of effort and the investment of hundreds of millions of dollars on the part of Federal, State, and local governments and the private sector, the goal of a clean, restored Bay appears elusive. For the past 3 years, the Chesapeake Bay Foundation has given the Chesapeake Bay a failing grade of 27 out of 100 on its annual report card—far short of the ''70'' level believed necessary for the Bay to be declared ''saved.'' The continued flood of sediments and nutrient pollution from sewage treatment plants, farms, urban runoff, and air deposition, combined with continued rapid growth in population and development in the watershed, is offsetting the progress that has been made to date in restoring the Bay. The Bay remains an ''impaired water body'' under the Clean Water Act, and Chesapeake Bay Program scientists are forecasting another summer of very low oxygen levels in the deep waters of the Bay, further stressing oysters, crabs, and other living resources. As author and naturalist Tom Horton points out in a recent National Geographic article,

''No one had illusions that the work of the Chesapeake Bay Program, a massive Federal-State restoration effort, begun in 1983 and unmatched anywhere in the world, would be quick or easy. But no one anticipated that 22 years later we would still be struggling.''

If the Bay is to be restored, we must redouble our efforts. Nitrogen pollution from all sources will have to be substantially reduced, thousands of acres of watershed property must be preserved, significant efforts must be made to restore living resources, and buffer zones to protect rivers and streams need to be created. Likewise, assistance to community organizations, local governments, and educational institutions at all levels must be expanded dramatically to help foster local stewardship and entice more of the 16 million residents who live in the watershed to play active roles in the efforts to restore the Bay.

The five measures that we are introducing are an important part of, but by no means the entire, solution for addressing the Bay's problems. Earlier in this Congress, Members from the Bay-area States, from both parties, joined with me in a letter to President Bush, urging him to make restoration of Chesapeake Bay a top environmental priority and to commit $1 billion in his budget as a down-payment towards restoring the Bay's water quality. We called upon the Secretary of Agriculture to release $100 million provided under the 2002 Farm Bill for farmers to test new, innovative techniques for reducing agricultural nutrient pollution in the Chesapeake Bay watershed. Under Senator WARNER's leadership, we succeeded in getting a provision in the Senate-passed SAFETEA legislation, which would provide more than $70 million for the Bay area States and local governments to mitigate the impacts of storm-water runoff from highways and related impervious surfaces. We have fought to prevent a significant cut in funding for the Clean Water State Revolving Fund. And we have continued to press the Administrator of the Environmental Protection Agency to ensure that the Clean Water Act is fully enforced. All these are critical components of a more comprehensive effort on the part of the Federal, State and local governments and the private sector that will be needed over the course of the next few years to restore the health of the Chesapeake Bay.

The first measure, the Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005, would reauthorize and enhance EPA's Chesapeake Bay Program and would increase the program's accountability for improving the health of the Bay. The Chesapeake Bay Program, which has guided the clean-up effort for the past two decades, expires this year and must be reauthorized. Originally authorized in the Water Quality Act of 1987 and reauthorized in the Estuaries and Clean Water Act of 2000, the Chesapeake Bay Program provides support and coordination for Federal, State, and local efforts in developing strategies and action plans, conducting system-wide monitoring and assessment, implementing projects to restore and protect the Bay and its living resources, and communicating with the public about the Bay and efforts to restore and protect it.

Last year, Senator MIKULSKI, Senator WARNER, and I asked the Government Accountability Office to conduct a review of the Bay Program that would assess the overall restoration progress reported for the Bay; determine how progress is measured in the Bay watershed; and evaluate the effectiveness of Chesapeake Bay Program efforts to ensure that proper measures are being used. That study is nearing completion. Its preliminary findings recommend a number of improvements to the Program, which we have incorporated in this measure. The Chesapeake 2000 Agreement provides goals for the Bay, but the GAO found that EPA has not developed a plan to achieve these goals. Bay restoration has also been hampered by a lack of interim goals and time frames against which progress can be assessed. The legislation we are introducing today requires the EPA Administrator to develop an implementation plan for reaching the goals of the Chesapeake 2000 Agreement, including a timeline with specific annual goals for nutrient and sediment reduction, associated costs, and measures for assessing progress, and to prepare an annual report for Congress that describes the accomplishments of the previous year and the reductions likely to occur in the future. The legislation also directs the Administrator to publish and widely circulate annual ''tributary report cards'' that describe the progress made in achieving the nutrient and sediment reduction goals for each major tributary or tributary segment in the Bay watershed. These ''report cards'' will provide the public with a clear and accurate picture of the progress toward restoring the Bay, which is currently lacking. In addition, the Director of the Office of Management and Budget is to submit an annual report on Chesapeake Bay Program funding.

The second measure, the Chesapeake Bay Watershed Nutrient Removal Assistance Act, would establish a grants program in the Environmental Protection Agency to support the installation of nutrient reduction technologies at major wastewater treatment facilities in the Chesapeake Bay watershed. I first introduced this measure during the 107th Congress, and provisions of the legislation were included as part of S. 1961, the Water Investment Act of 2002, reported favorably by the Senate Environment and Public Works Committee. Unfortunately, no further action was taken on that legislation.

Despite important water quality improvements over the past decade, the overabundance of the nutrients nitrogen and phosphorus continues to rob the Bay of life-sustaining oxygen. Recent modeling of EPA's Bay Program has found that total nutrient discharges must be reduced by more than 40 percent from current levels to restore the Chesapeake Bay and its major tributaries to health. To do so, nitrogen discharges from all sources must be reduced drastically below current levels. Annual nitrogen discharges into the Bay will need to be cut by at least 100 million pounds from the current 275 million pounds to less than 175 million pounds. Municipal wastewater treatment plants, in particular, will have to reduce nitrogen discharges by nearly 75 percent.

In December 2004, the Chesapeake Bay Commission issued a report entitled ''Cost-Effective Strategies for the Bay''; of the six most cost-effective strategies listed in that report, upgrading wastewater treatment plants is Number One. There are more than 300 significant municipal wastewater treatment plants in the Chesapeake Bay watershed. These plants contribute almost 60 million pounds of nitrogen per year—one-fifth—of the total load of nitrogen to the Bay. Upgrading these plants with nutrient removal technologies to achieve nitrogen levels of 3 mg/liter would remove as much as 30 million pounds of nitrogen in the Bay each year, or 30 percent of the total nitrogen reductions needed. Nutrient removal technologies have other benefits, as well. They provide significant savings in energy usage, 20–30 percent, in chemical usage, more than 50 percent, and in the amount of sludge produced, 5–15 percent. Furthermore, the benefits from upgrading sewage treatment plants have an immediate result on the Bay's water quality, unlike other methods that primarily affect nutrients in ground water and may take years to produce results. This legislation would provide grants for 55 percent of the capital cost of upgrading the plants with state-of-the-art nutrient removal technologies capable of achieving nitrogen levels of 3 mg/liter. Any publicly owned wastewater treatment plant which has a permitted design capacity to treat an annual average of 0.5 million gallons per day within the Chesapeake Bay watershed portion of New York, Pennsylvania, Maryland, West Virginia, Delaware, Virginia, and the District of Columbia would be eligible to receive these grants. As a signatory to the Chesapeake Bay Agreement, the EPA has an important responsibility to assist the states with financing these water infrastructure needs.

The third measure, the Chesapeake Bay Environmental Education Pilot Program Act, would establish a new environmental education program in the U.S. Department of Education for elementary and secondary school students and teachers within the Chesapeake Bay watershed. There is a growing consensus that a major commitment to education to promoting an ethic of responsible stewardship and

citizenship among the 16 million people who live in the watershed is necessary if all of the other efforts to save the Bay are to succeed. Expanding environmental education and training opportunities will lead not only to a healthier Chesapeake Bay ecosystem but also to a more educated and informed citizenry, with a deeper understanding of and appreciation for the environment, their community, and their role in society as responsible citizens.

One of the principal commitments of the Chesapeake 2000 Agreement is to ''provide a meaningful Bay or stream outdoor experience for every school student in the watershed before graduation from high school'' beginning with the class of 2005. There are more than 3.3 million K–12 students in the watershed, and despite important efforts by Bay area states and not-for-profit organizations, only a very small percentage of these students have had the opportunity to engage in meaningful outdoor experiences or receive classroom environmental instruction. Many of the school systems in the Bay watershed are only at the beginning stages in developing and implementing environmental education into their curriculum, let alone exposing students to outdoor watershed experiences. What's lacking is not the desire or will, but the resources and training to undertake more comprehensive environmental education programs.

This legislation would authorize $6 million a year over the next four years in Federal grant assistance to help close the resource and training gap for students in the elementary and secondary levels in the Chesapeake Bay watershed. It would require a 50 percent non-Federal match, thus leveraging $12 million in assistance. The funding could be used to help design, demonstrate or disseminate environmental curricula and field practices, train teachers or other educational personnel, and support on-the-ground activities or Chesapeake Bay or stream outdoor educational experiences involving students and teachers, among other things. The program would complement the NOAA Bay Watershed Education and Training Program that we established several years ago.

The fourth measure, the Chesapeake Bay Watershed Forestry Act, would continue and enhance the USDA Forest Service's role in the restoration of the Chesapeake Bay watershed. Forest loss and fragmentation are occurring rapidly in the Chesapeake Bay region and are among the most important issues facing the Bay and forest management today. According to the National Resources Inventory, the States closest to the Bay lost 350,000 acres of forest between 1987 and 1997—almost 100 acres per day. More and more rural areas are being converted to suburban developments, resulting in smaller contiguous forest tracts. These trends are leading to a regional forest land base that is more vulnerable to conversion, is less likely to be economically viable in the future, and is losing its capacity to protect watershed health and other ecological benefits, such as controlling stormwater runoff, erosion and air pollution. Restoring and conserving forests is essential to sustaining the Bay ecosystem.

Since 1990, the USDA Forest Service has been an important part of the Chesapeake Bay Program. The Service has worked closely with Federal, State, and local partners in the six-state Chesapeake Bay region to demonstrate how forest protection, restoration, and stewardship activities can contribute to achieving the Bay restoration goals. With the signing of the Chesapeake 2000 Agreement, the role of the USDA Forest Service has become more important than ever. Among other provisions, this Agreement requires the signatories to conserve existing forests along all streams and shoreline; to promote the expansion and connection of contiguous forests; to assess the Bay's forest lands; and to provide technical and financial assistance to local governments to plan for or revise plans, ordinances, and subdivision regulations to provide for the conservation and sustainable use of the forest and agricultural lands.

This legislation codifies the role and responsibilities of the USDA Forest Service to the Bay restoration effort. It requires an evaluation of the urban and rural forests in the watershed. It strengthens existing coordination, technical assistance, forest resource assessment, and planning efforts for urban, suburban and rural areas of the Chesapeake Bay watershed. It authorizes a small grants program to support local agencies, watershed associations, and citizen groups in conducting on-the-ground conservation projects. It establishes a regional applied forestry research and training program to enhance urban, suburban and rural forests in the watershed. Finally it authorizes $3.5 million for each of fiscal years 2004 through 2010, a modest increase in view of the six-State, 64,000-square-mile watershed.

The fifth measure, the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act, would enhance the authorities of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration, NOAA, to address the goals and commitments of the Chesapeake 2000 Agreement with regard to living-resource restoration and education and training. It builds upon provisions contained in the Hydrographic Services Improvement Act Amendments of 2002, and addresses several urgent and unmet needs in the watershed. To help meet Bay-wide living resource education and training goals, it codifies the Bay Watershed Education and Training, or B-WET, Program—the first federally funded environmental education program focused solely on the Chesapeake Bay watershed—that we initiated in the Fiscal 2002 Commerce, Justice, State Appropriations bill; it establishes an aquaculture education program to assist with oyster and blue crab hatchery production; and it codifies the ongoing oyster restoration program and authorizes a new restoration program for submerged aquatic vegetation.

To better coordinate and organize the substantial amounts of weather, tide, habitat, water-quality and other data collected and compiled by Federal, State, and local government agencies and academic institutions and to make this information more useful to resource managers, scientists, and the public, this bill also establishes an integrated observing system for the Chesapeake Bay. This system will build on and coordinate existing monitoring and observing activities in the Bay and its watershed, and will include development of an internet-based system for integrating and disseminating the vast amounts of information available.

These measures would provide an important boost to our efforts to restore the Chesapeake Bay. They are strongly supported by the Chesapeake Bay Commission and the Chesapeake Bay Foundation. I ask unanimous consent that the text of the bills and supporting letters be printed in the RECORD. I urge my colleagues to join with us in supporting the measures and continue the momentum contributing to the improvement and enhancement of our Nation's most valuable and treasured natural resource.

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

S. 1490

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 ''Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005''.

SEC. 2. CHESAPEAKE BAY ENVIRONMENTAL ACCOUNTABILITY AND REPORTING REQUIREMENTS.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended—

(1) by redesignating subsection (j) as subsection (l);

(2) in subsection (e)(7), by inserting ''by the Federal Government or a State government'' after ''funded'' each place it appears; and

(3) by inserting after subsection (i) the following:

''(j) ENVIRONMENTAL ACCOUNTABILITY.—

''(1) IMPLEMENTATION PLAN.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall complete a plan for achieving the nutrient and sediment reduction goals described in the agreement entered into by the Chesapeake Executive Council entitled 'Chesapeake 2000' and dated June 28, 2000.

''(B) INCLUSIONS.—The plan shall include—

''(i) a timeline identifying—

''(I) annual goals for achieving the overall nutrient and sediment reduction goals; and

''(II) the estimated annual costs of reaching the annual goals identified under subclause (I);

''(ii) a description of any measure, including monitoring or modeling, that the Administrator will use to assess progress made toward achieving a goal described in subparagraph (A) in—

''(I) each jurisdictional tributary strategy basin of the Chesapeake Bay; and

''(II) the Chesapeake Bay watershed as a whole; and

''(iii) a description of any Federal or non-Federal activity necessary to achieve the nutrient and sediment reduction goals, including an identification of any party that is responsible for carrying out the activity.

''(2) ANNUAL TRIBUTARY HEALTH REPORT CARD.—

''(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall publish and widely circulate a 'tributary health report card' to evaluate, based on monitoring and modeling data, progress made during the preceding year (including any practice implemented during the year), and overall progress made, in achieving and maintaining nutrient and sediment reduction goals for each major tributary of the Chesapeake Bay and each separable segment of such a tributary.

''(B) BASELINE.—The baseline for the report card (referred to in this paragraph as the 'baseline') shall be the tributary cap load allocation agreement numbered EPA 903–R–03–007, dated December 2003, and entitled 'Setting and Allocating the Chesapeake Bay Basin Nutrient and Sediment Loads: The Collaborative Process, Technical Tools and Innovative Approaches'.

''(C) INCLUSIONS.—The report card shall include, for each jurisdictional tributary strategy basin of the Chesapeake Bay—

''(i) an identification of the total allocation of nutrients and sediments under the baseline;

''(ii) the monitored and modeled quantities of nitrogen, phosphorus, and sediment reductions achieved during the preceding year, expressed numerically and as a percentage of reduction;

''(iii) a list (organized from least to most progress made) that ranks the comparative progress made, based on the percentage of reduction under clause (ii), by each jurisdictional tributary strategy basin toward meeting the annual allocation goal of that jurisdictional tributary strategy basin for nitrogen, phosphorus, and sediment; and

''(iv) to the maximum extent practicable, an identification of the principal sources of pollutants of the tributaries, including airborne sources of pollutants.

''(D) USE OF DATA; CONSIDERATION.—In preparing the report, the Administrator shall—

''(i) use monitoring data and data submitted under paragraph (3)(A); and

''(ii) take into consideration drought and wet weather conditions.

''(3) ACTIONS BY STATES.—

''(A) SUBMISSION OF INFORMATION.—Not later than December 31 of each year, each of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia and the District of Columbia shall submit to the Administrator information describing, for each jurisdictional tributary strategy basin of the Chesapeake Bay located in the State or District, for the preceding year—

''(i) the nutrient and sediment cap load allocation of the jurisdictional tributary strategy basin;

''(ii) the principal sources of nutrients and sediment in the jurisdictional tributary strategy basin, by category;

''(iii) for each category of pollutant source, the technologies or practices used to achieve reductions, including levels of best management practices implementation and sewage treatment plant upgrades; and

''(iv) any Federal, State, or non-Federal funding used to implement a technology or practice described in clause (iii).

''(B) AUDIT.—Not later than 1 year after the date of enactment of this subparagraph, and triennially thereafter, the Inspector General of the Environmental Protection Agency shall audit the information submitted by States under subparagraph (A) for accuracy.

''(C) FAILURE TO ACT.—The Administrator shall not make a grant to a State under this Act if the State fails to submit any information in accordance with subparagraph (A).

''(k) REPORTING REQUIREMENTS.—

''(1) OFFICE OF MANAGEMENT AND BUDGET.—

''(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this subsection, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Senate and the House of Representatives a report describing the feasibility and advisability of—

''(i) combining into a single fund certain or all funds (including formula and grant funds) made available to each Federal agency to carry out restoration activities relating to the Chesapeake Bay; and

''(ii) notwithstanding any issue relating to jurisdiction, distributing amounts from that fund in accordance with the priority of water quality improvement activities identified under the Chesapeake Bay Program.

''(B) ANNUAL REPORT.—Not later than February 15 of each year, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Senate and the House of Representatives a report containing—

''(i) an interagency crosscut budget that displays the proposed budget for use by each Federal agency in carrying out restoration activities relating to the Chesapeake Bay for the following fiscal year; and

''(ii) a detailed accounting of all funds received and obligated by Federal and State governments (including formula and grant funds, such as State revolving loan funds and agriculture conservation funds) to achieve the objectives of the Chesapeake Bay Program during the preceding fiscal year.

''(2) ENVIRONMENTAL PROTECTION AGENCY.—Not later than April 15 of each year, the Administrator, in cooperation with appropriate Federal agencies, as determined by the Administrator, shall submit to the appropriate committees of the Senate and the House of Representatives a report containing—

''(A)(i) an estimate of the reduction in levels of nutrients and sediments in the Chesapeake Bay and its tributaries; and

''(ii) a comparison of each estimated reduction under clause (i) and the appropriate annual goal described in the implementation plan under subsection (j)(1);

''(B) based on review by the Administrator of the budget and implementation plans of each Federal agency, and any tributary strategy of an appropriate State agency—

''(i) an estimate of the reductions in pollutants likely to occur as a result of each program of an agency under this section during the subsequent 1-year and 5-year periods, including—

''(I) an analysis of the success or failure of each program in achieving nutrient and sediment reduction; and

''(II) an estimated timeline during which a reduction in nutrient and sediment pollution will occur; and

''(ii) accounting for other trend data, an estimate of the actual reduction in the quantities of nutrients and sediments in the Chesapeake Bay and its tributaries from all sources that has occurred over the preceding 1-year and 5-year periods; and

''(C) the technical basis and reliability of each estimate under this paragraph.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended by striking subsection (l) (as redesignated by section 2) and inserting the following:

''(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.''.

S. 1491

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 ''Chesapeake Bay Watershed Nutrient Removal Assistance Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) nutrient pollution from point sources and nonpoint sources continues to be the most significant water quality problem in the Chesapeake Bay watershed;

(2) a key commitment of the Chesapeake 2000 agreement, an interstate agreement among the Administrator, the Chesapeake Bay Commission, the District of Columbia, and the States of Maryland, Virginia, and Pennsylvania, is to achieve the goal of correcting the nutrient-related problems in the Chesapeake Bay by 2010;

(3) by correcting those problems, the Chesapeake Bay and its tidal tributaries may be removed from the list of impaired bodies of water designated by the Administrator of the Environmental Protection Agency under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d));

(4) more than 300 major sewage treatment plants located in the Chesapeake Bay watershed annually discharge approximately 60,000,000 pounds of nitrogen, or the equivalent of 20 percent of the total nitrogen load, into the Chesapeake Bay; and

(5) nutrient removal technology is 1 of the most reliable, cost-effective, and direct methods for reducing the flow of nitrogen from point sources into the Chesapeake Bay.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Administrator of the Environmental Protection Agency to provide financial assistance to States and municipalities for use in upgrading publicly-owned wastewater treatment plants in the Chesapeake Bay watershed with nutrient removal technologies; and

(2) to further the goal of restoring the water quality of the Chesapeake Bay to conditions that are protective of human health and aquatic living resources.

SEC. 3. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

''TITLE VII—MISCELLANEOUS

''SEC. 701. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

''(a) DEFINITION OF ELIGIBLE FACILITY.—In this section, the term 'eligible facility' means a municipal wastewater treatment plant that—

''(1) as of the date of enactment of this title, has a permitted design capacity to treat an annual average of at least 500,000 gallons of wastewater per day; and

''(2) is located within the Chesapeake Bay watershed in any of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, or West Virginia or in the District of Columbia.

''(b) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this title, the

Administrator shall establish a program within the Environmental Protection Agency to provide grants to States and municipalities to upgrade eligible facilities with nutrient removal technologies.

''(2) PRIORITY.—In providing a grant under paragraph (1), the Administrator shall—

''(A) consult with the Chesapeake Bay Program Office;

''(B) give priority to eligible facilities at which nutrient removal upgrades would—

''(i) produce the greatest nutrient load reductions at points of discharge; or

''(ii) result in the greatest environmental benefits to local bodies of water surrounding, and the main stem of, the Chesapeake Bay; and

''(iii) take into consideration the geographic distribution of the grants.

''(3) APPLICATION.—

''(A) IN GENERAL.—On receipt of an application from a State or municipality for a grant under this section, if the Administrator approves the request, the Administrator shall transfer to the State or municipality the amount of assistance requested.

''(B) FORM.—An application submitted by a State or municipality under subparagraph (A) shall be in such form and shall include such information as the Administrator may prescribe.

''(4) USE OF FUNDS.—A State or municipality that receives a grant under this section shall use the grant to upgrade eligible facilities with nutrient removal technologies that are designed to reduce total nitrogen in discharged wastewater to an average annual concentration of 3 milligrams per liter.

''(5) COST SHARING.—

''(A) FEDERAL SHARE.—The Federal share of the cost of upgrading any eligible facility as described in paragraph (1) using funds provided under this section shall not exceed 55 percent.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of upgrading any eligible facility as described in paragraph (1) using funds provided under this section may be provided in the form of funds made available to a State or municipality under—

''(i) any provision of this Act other than this section (including funds made available from a State revolving fund established under title VI); or

''(ii) any other Federal or State law.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $132,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

''(2) ADMINISTRATIVE COSTS.—The Administrator may use not to exceed 4 percent of any amount made available under paragraph (1) to pay administrative costs incurred in carrying out this section.''.

S. 1492

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 ''Chesapeake Bay Environmental Education Pilot Program Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) increasing public environmental awareness and understanding through formal environmental education and meaningful bay or stream field experiences are vital parts of the effort to protect and restore the Chesapeake Bay ecosystem;

(2) using the Chesapeake Bay watershed as an integrating context for learning can help—

(A) advance student learning skills;

(B) improve academic achievement in core academic subjects; and

(C)(i) encourage positive behavior of students in school; and

(ii) encourage environmental stewardship in school and in the community; and

(3) the Federal Government, acting through the Secretary of Education, should work with the Under Secretary for Oceans and Atmosphere, the Chesapeake Executive Council, State educational agencies, elementary schools and secondary schools, and nonprofit educational and environmental organizations to support development of curricula, teacher training, special projects, and other activities, to increase understanding of the Chesapeake Bay watershed and to improve awareness of environmental problems.

SEC. 3. CHESAPEAKE BAY ENVIRONMENTAL EDUCATION AND TRAINING GRANT PILOT PROGRAM.

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

''PART D—CHESAPEAKE BAY ENVIRONMENTAL EDUCATION AND TRAINING GRANT PILOT PROGRAM

''SEC. 4401. DEFINITIONS.

''In this part:

''(1) BAY WATERSHED STATE.—The term 'Bay Watershed State' means each of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia, and the District of Columbia.

''(2) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' has the meaning given the term in section 307(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(d)).

''(3) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

''(A) a public elementary school or secondary school located in a Bay Watershed State; and

''(B) a nonprofit environmental or educational organization located in a Bay Watershed State.

''(4) PROGRAM.—The term 'Program' means the Chesapeake Bay Environmental Education and Training Grant Pilot Program established under section 4402.

''SEC. 4402. CHESAPEAKE BAY ENVIRONMENTAL EDUCATION AND TRAINING GRANT PILOT PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a grant program, to be known as the 'Chesapeake Bay Environmental Education and Training Grant Pilot Program', to make grants to eligible institutions to pay the Federal share of the cost of developing, demonstrating, or disseminating information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed.

''(b) FEDERAL SHARE.—The Federal share referred to in subsection (a) shall be 50 percent.

''(c) ADMINISTRATION.—The Secretary may offer to enter into a cooperative agreement or contract with the National Fish and Wildlife Foundation established by the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), the Under Secretary for Oceans and Atmosphere, a State educational agency, or a nonprofit organization that carries out environmental education and training programs, for administration of the Program.

''(d) USE OF FUNDS.—An eligible institution that receives a grant under the Program shall use the funds made available through the grant to carry out a project consisting of—

''(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools or materials;

''(2) design or demonstration of field practices, methods, or techniques, including—

''(A) assessments of environmental or ecological conditions; and

''(B) analyses of environmental pollution or other natural resource problems;

''(3) understanding and assessment of a specific environmental issue or a specific environmental problem;

''(4) provision of training or related education for teachers or other educational personnel, including provision of programs or curricula to meet the needs of students in various age groups or at various grade levels;

''(5) provision of an environmental education seminar, teleconference, or workshop for environmental education professionals or environmental education students, or provision of a computer network for such professionals and students;

''(6) provision of on-the-ground activities involving students and teachers, such as—

''(A) riparian forest buffer restoration; and

''(B) volunteer water quality monitoring at schools;

''(7) provision of a Chesapeake Bay or stream outdoor educational experience; or

''(8) development of distance learning or other courses or workshops that are acceptable in all Bay Watershed States and apply throughout the Chesapeake Bay watershed.

''(e) REQUIRED ELEMENTS OF PROGRAM.—In carrying out the Program, the Secretary shall—

''(1) solicit applications for projects;

''(2) select suitable projects from among the projects proposed;

''(3) supervise projects;

''(4) evaluate the results of projects; and

''(5) disseminate information on the effectiveness and feasibility of the practices, methods, and techniques addressed by the projects.

''(f) SOLICITATION OF APPLICATIONS.—Not later than 90 days after the date on which amounts are first made available to carry out this part, and each year thereafter, the Secretary shall publish a notice of solicitation for applications for grants under the Program that specifies the information to be included in each application.

''(g) APPLICATIONS.—To be eligible to receive a grant under the Program, an eligible institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

''(h) PRIORITY IN SELECTION OF PROJECTS.—In making grants under the Program, the Secretary shall give priority to an applicant that proposes a project that will develop—

''(1) a new or significantly improved environmental education practice, method, or technique, in multiple disciplines, or a program that assists appropriate entities and individuals in meeting Federal or State academic standards relating to environmental education;

''(2) an environmental education practice, method, or technique that may have wide application; and

''(3) an environmental education practice, method, or technique that addresses a skill or scientific field identified as a priority by the Chesapeake Executive Council.

''(i) MAXIMUM AMOUNT OF GRANTS.—Under the Program, the maximum amount of a grant shall be $50,000.

''(j) NOTIFICATION.—Not later than 3 days before making a grant under this part, the Secretary shall provide notification of the grant to the appropriate committees of Congress.

''(k) REGULATIONS.—Not later than 1 year after the date of enactment of the Chesapeake Bay Environmental Education Pilot Program Act, the Secretary shall promulgate regulations concerning implementation of the Program.

''SEC. 4403. EVALUATION AND REPORT.

''(a) EVALUATION.—Not later than December 31, 2009, the Secretary shall enter into a contract with an entity that is not the recipient of a grant under this part to conduct a detailed evaluation of the Program. In conducting the evaluation, the Secretary shall determine whether the quality of content, delivery, and outcome of the Program warrant continued support of the Program.

''(b) REPORT.—Not later than December 31, 2010, the Secretary shall submit a report to the appropriate committees of Congress containing the results of the evaluation.

''SEC. 4404. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this part $6,000,000 for each of fiscal years 2006 through 2009.

''(b) ADMINISTRATIVE EXPENSES.—Of the amounts made available under subsection (a) for each fiscal year, not more than 10 percent may be used for administrative expenses.''.

S. 1493

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 ''Chesapeake Bay Watershed Forestry Program Act of 2005''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) trees and forests are critical to the long-term health and proper ecological functioning of the Chesapeake Bay and the Chesapeake Bay watershed;

(2) the Chesapeake Bay States are losing forest land to urban and suburban growth at a rate of nearly 100 acres per day;

(3) the Forest Service has a vital role to play in assisting States, local governments, and nonprofit organizations in carrying out forest conservation, restoration, and stewardship projects and activities; and

(4) existing programs do not ensure the support necessary to meet Chesapeake Bay forest goals.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and strengthen cooperative efforts to protect, restore, and manage forests in the Chesapeake Bay watershed; and

(2) to contribute to the achievement of the goals of the Chesapeake Bay Agreement.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHESAPEAKE BAY AGREEMENT.—The term ''Chesapeake Bay Agreement'' means the formal, voluntary agreements—

(A) executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem; and

(B) signed by the Council.

(2) CHESAPEAKE BAY STATE.—The term ''Chesapeake Bay State'' means each of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia and the District of Columbia.

(3) COORDINATOR.—The term ''Coordinator'' means the Coordinator of the program designated under section 4(b)(1)(B).

(4) COUNCIL.—The term ''Council'' means the Chesapeake Bay Executive Council.

(5) PROGRAM.—The term ''program'' means the Chesapeake Bay watershed forestry program carried out under section 4(a).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service and the Coordinator.

SEC. 4. CHESAPEAKE BAY WATERSHED FORESTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a Chesapeake Bay watershed forestry program under which the Secretary shall make grants and provide technical assistance to eligible entities to restore and conserve forests in the Chesapeake Bay watershed, including grants and assistance—

(1) to promote forest conservation, restoration, and stewardship efforts in urban, suburban, and rural areas of the Chesapeake Bay watershed;

(2) to accelerate the restoration of riparian forest buffers in the Chesapeake Bay watershed;

(3) to assist in developing and carrying out projects and partnerships in the Chesapeake Bay watershed;

(4) to promote the protection and sustainable management of forests in the Chesapeake Bay watershed;

(5) to develop communication and education resources that enhance public understanding of the value of forests in the Chesapeake Bay watershed;

(6) to conduct research, assessment, and planning activities to restore and protect forest land in the Chesapeake Bay watershed; and

(7) to contribute to the achievement of the goals of the Chesapeake Bay Agreement.

(b) OFFICE; COORDINATOR.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain an office within the Forest Service to carry out the program; and

(B) designate an employee of the Forest Service as Coordinator of the program.

(2) DUTIES.—As part of the program, the Coordinator, in cooperation with the Secretary and the Chesapeake Bay Program, shall—

(A) provide grants and technical assistance to restore and protect forests in the Chesapeake Bay watershed;

(B) enter into partnerships to carry out forest restoration and conservation activities at a watershed scale using the resources and programs of the Forest Service;

(C) in collaboration with other units of the Forest Service, other Federal agencies, and State forestry agencies, carry out activities that contribute to the goals of the Chesapeake Bay Agreement;

(D) work with units of the National Forest System in the Chesapeake Bay watershed to ensure that the units are managed in a manner that—

(i) protects water quality; and

(ii) sustains watershed health;

(E) represent the Forest Service in deliberations of the Chesapeake Bay Program; and

(F) support and collaborate with the Forestry Work Group for the Chesapeake Bay Program in planning and implementing program activities.

(c) ELIGIBLE ENTITIES.—To be eligible to receive assistance under the program, an entity shall be—

(1) a Chesapeake Bay State;

(2) a political subdivision of a Chesapeake Bay State;

(3) a university or other institution of higher education;

(4) an organization operating in the Chesapeake Bay watershed that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; or

(5) any other person in the Chesapeake Bay watershed that the Secretary determines to be eligible.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible entities under the program to carry out projects to protect, restore, and manage forests in the Chesapeake Bay watershed.

(2) FEDERAL SHARE.—The Federal share of a grant made under the program shall not exceed 75 percent, as determined by the Secretary.

(3) TYPES OF PROJECTS.—The Secretary may make a grant to an eligible entity for a project in the Chesapeake Bay watershed that—

(A) improves habitat and water quality through the establishment, protection, or stewardship of riparian or wetland forests or stream corridors;

(B) builds the capacity of State forestry agencies and local organizations to implement forest conservation, restoration, and stewardship actions;

(C) develops and implements watershed management plans that—

(i) address forest conservation needs; and

(ii) reduce urban and suburban runoff;

(D) provides outreach and assistance to private landowners and communities to restore or conserve forests in the watershed;

(E) implements communication, education, or technology transfer programs that broaden public understanding of the value of trees and forests in sustaining and restoring the Chesapeake Bay watershed;

(F) coordinates and implements community-based watershed partnerships and initiatives that—

(i) focus on—

(I) the expansion of the urban tree canopy; and

(II) the restoration or protection of forest land; or

(ii) integrate the delivery of Forest Service programs for restoring or protecting watersheds;

(G) provides enhanced forest resource data to support watershed management;

(H) enhances upland forest health to reduce risks to watershed function and water quality; or

(I) conducts inventory assessment or monitoring activities to measure environmental change associated with projects carried out under the program.

(4) CHESAPEAKE BAY WATERSHED FORESTERS.—Funds made available under section 6 may be used by a Chesapeake Bay State to employ a State watershed forester to work with the Coordinator to carry out activities and watershed projects relating to the program.

(e) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Council, shall conduct a study of urban and rural forests in the Chesapeake Bay watershed, including—

(A) an evaluation of the state, and threats to the sustainability, of forests in the Chesapeake Bay watershed;

(B) an assessment of forest loss and fragmentation in the Chesapeake Bay watershed;

(C) an identification of forest land within the Chesapeake Bay watershed that should be restored or protected; and

(D) recommendations for expanded and targeted actions or programs needed to achieve the goals of the Chesapeake Bay Agreement.

(2) REPORT.—Not later than 1 year after amounts are first made available under section 6, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study.

SEC. 5. WATERSHED FORESTRY RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary, in cooperation with the Council, shall establish a watershed forestry research program for the Chesapeake Bay watershed.

(b) ADMINISTRATION.—In carrying out the watershed forestry research program established under subsection (a), the Secretary shall—

(1) use a combination of applied research, modeling, demonstration projects, implementation guidance, strategies for adaptive management, training, and education to meet the needs of the residents of the Chesapeake Bay States for managing forests in urban, developing, and rural areas;

(2) solicit input from local managers and Federal, State, and private researchers, with respect to air and water quality, social and economic implications, environmental change, and other Chesapeake Bay watershed forestry issues in urban and rural areas;

(3) collaborate with the Chesapeake Bay Program Scientific and Technical Advisory Committee and universities in the Chesapeake Bay States to—

(A) address issues in the Chesapeake Bay Agreement; and

(B) support modeling and informational needs of the Chesapeake Bay program; and

(4) manage activities of the watershed forestry research program in partnership with the Coordinator.

(c) WATERSHED FORESTRY RESEARCH STRATEGY.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with the Northeastern Forest Research Station and the Southern Forest Research Station, shall submit to Congress a strategy for research to address Chesapeake Bay watershed goals, including recommendations for implementation and leadership of the program.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the program $3,500,000 for each of fiscal years 2006 through 2012, of which—

(1) not more than $500,000 shall be used to conduct the study required under section 4(e); and

(2) not more than $1,000,000 for any fiscal year shall be used to carry out the watershed forestry research program under section 5.

SEC. 7. REPORT.

Not later than December 31, 2007, and annually thereafter, the Secretary shall submit to Congress a comprehensive report that describes the costs, accomplishments, and outcomes of the activities carried out under the program.

S. 1494

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 ''NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act''.

SEC. 2. CHESAPEAKE BAY OFFICE PROGRAMS.

Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended—

(1) by redesignating subsections (d) and (e), as subsections (h) and (i), respectively; and

(2) by inserting after subsection (c), the following new subsections:

''(d) CHESAPEAKE BAY INTEGRATED OBSERVING SYSTEM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act, the Director shall collaborate with scientific and academic institutions, Federal agencies, State and nongovernmental organizations, and other constituents located in the Chesapeake Bay watershed to establish a Chesapeake Bay Integrated Observing System (in this section referred to as the 'System').

''(B) PURPOSE.—The purpose of the System is to provide information needed to restore the health of the Chesapeake Bay, on such topics as land use, environmental quality of the Bay and its shoreline, coastal erosion, ecosystem health and performance, aquatic living resources and habitat conditions, and weather, tides, currents, and circulation.

''(C) ELEMENTS OF SYSTEM.—The System shall coordinate existing monitoring and observing activities in the Chesapeake Bay watershed, identify new data collection needs, and deploy new technologies to provide a complete set of environmental information for the Chesapeake Bay, including the following activities:

''(i) Collecting and analyzing the scientific information related to the Chesapeake Bay that is necessary for the management of living marine resources and the marine habitat associated with such resources.

''(ii) Managing and interpreting the information described in clause (i).

''(iii) Organizing the information described in clause (i) into products that are useful to policy makers, resource managers, scientists, and the public.

''(iv) Developing or supporting the development of an Internet-based information system for integrating, interpreting, and disseminating coastal information, products, and forecasts concerning the Chesapeake Bay watershed related to—

''(I) climate;

''(II) land use;

''(III) coastal pollution and environmental quality;

''(IV) coastal hazards;

''(V) ecosystem health and performance;

''(VI) aquatic living resources and habitat conditions and management;

''(VII) economic and recreational uses; and

''(VIII) weather, tides, currents, and circulation that affect the distribution of sediments, nutrients, organisms, coastline erosion, and related physical and chemical events and processes.

''(D) AGREEMENTS TO PROVIDE DATA, INFORMATION, AND SUPPORT.—The Director may enter into agreements with other entities of the National Oceanic and Atmospheric Administration, other Federal, State, or local government agencies, academic institutions, or organizations described in subsection (e)(2)(A)(i) to provide and interpret data and information, and may provide appropriate support to such agencies, institutions, or organizations to fulfill the purposes of the System.

''(E) AGREEMENTS RELATING TO INFORMATION PRODUCTS.—The Director may enter into grants, contracts, and interagency agreements with eligible entities for the collection, processing, analysis, and interpretation of data and information and for electronic publication of information products.

''(e) CHESAPEAKE BAY WATERSHED EDUCATION AND TRAINING PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Director, in cooperation with the Chesapeake Executive Council, shall establish a Chesapeake Bay watershed education and training program.

''(B) PURPOSES.—The program established under subparagraph (A) shall continue and expand the Chesapeake Bay watershed education programs offered by the Chesapeake Bay Office for the purposes of—

''(i) improving the understanding of elementary and secondary school students and teachers of the living resources of the ecosystem of the Chesapeake Bay;

''(ii) providing community education to improve watershed protection; and

''(iii) meeting the educational goals of the Chesapeake 2000 agreement.

''(2) GRANT PROGRAM.—

''(A) AUTHORIZATION.—The Director is authorized to award grants to pay the Federal share of the cost of a project described in subparagraph (C) to—

''(i) a nongovernmental organization in the Chesapeake Bay watershed that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code;

''(ii) a consortium of institutions described in clause (i);

''(iii) an elementary or secondary school located within the Chesapeake Bay watershed;

''(iv) a teacher at a school described in clause (iii); or

''(v) a department of education of a State if any part of such State is within the Chesapeake Bay watershed.

''(B) CRITERIA.—The Director shall consider, in awarding grants under this subsection, the experience of the applicant in providing environmental education and training projects regarding the Chesapeake Bay watershed to a range of participants and in a range of settings.

''(C) FUNCTIONS AND ACTIVITIES.—Grants awarded under this subsection may be used to support education and training projects that—

''(i) provide classroom education, including the use of distance learning technologies, on the issues, science, and problems of the living resources of the Chesapeake Bay watershed;

''(ii) provide meaningful outdoor experience on the Chesapeake Bay, or on a stream or in a local watershed of the Chesapeake Bay, in the design and implementation of field studies, monitoring and assessments, or restoration techniques for living resources;

''(iii) provide professional development for teachers related to the science of the Chesapeake Bay watershed and the dissemination of pertinent education materials oriented to varying grade levels;

''(iv) demonstrate or disseminate environmental educational tools and materials related to the Chesapeake Bay watershed;

''(v) demonstrate field methods, practices, and techniques including assessment of environmental and ecological conditions and analysis of environmental problems; and

''(vi) develop or disseminate projects designed to—

''(I) enhance understanding and assessment of a specific environmental problem in the Chesapeake Bay watershed or of a goal of the Chesapeake Bay Program;

''(II) protect or restore living resources of the Chesapeake Bay watershed; or

''(III) educate local land use officials and decision makers on the relationship of land use to natural resource and watershed protection.

''(D) FEDERAL SHARE.—The Federal share of the cost of a project funded with a grant awarded under this subsection shall not exceed 75 percent of the total cost of that project.

''(f) STOCK ENHANCEMENT AND HABITAT RESTORATION PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act, the Director, in cooperation with the Chesapeake Executive Council, shall establish a Chesapeake Bay watershed stock enhancement and habitat restoration program.

''(B) PURPOSE.—The purpose of the program established in subparagraph (A) is to support the restoration of oysters and submerged aquatic vegetation in the Chesapeake Bay.

''(2) ACTIVITIES.—To carry out the purpose of the program established under paragraph (1)(A), the Director is authorized to enter into grants, contracts, and cooperative agreements with an eligible entity to support—

''(A) the establishment of oyster hatcheries;

''(B) the establishment of submerged aquatic vegetation propagation programs; and

''(C) other activities that the Director determines are appropriate to carry out the purposes of such program.

''(g) CHESAPEAKE BAY AQUACULTURE EDUCATION.—The Director is authorized to make grants and enter into contracts with an institution of higher education, including a community college, for the purpose of—

''(1) supporting education in Chesapeake Bay aquaculture sciences and technologies; and

''(2) developing aquaculture processes and technologies to improve production, efficiency, and sustainability of disease-free oyster spat and submerged aquatic vegetation.''.

SEC. 3. REPORT.

Section 307(b)(7) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)(7)), is amended to read as follows:

''(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office, including—

''(A) a description of the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay;

''(B) a description of each grant awarded under this section since the submission of the most recent biennial report, including the amount of such grant and the activities funded with such grant; and

''(C) an action plan consisting of—

''(i) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

''(ii) proposals for—

''(I) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

''(II) integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.''.

SEC. 4. DEFINITIONS.

Subsection (h) of section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d), as redesignated by section 2(1), is amended to read as follows:

''(h) DEFINITIONS.—In this section:

''(1) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

''(2) CHESAPEAKE 2000 AGREEMENT.—The term 'Chesapeake 2000 agreement' means the agreement between the United States, Maryland, Pennsylvania, Virginia, the District of Columbia, and the Chesapeake Bay Commission entered into on June 28, 2000.

''(3) ELIGIBLE ENTITY.—Except as provided in subsection (c), the term 'eligible entity' means—

''(A) the government of a State in the Chesapeake Bay watershed or the government of the District of Columbia;

''(B) the government of a political subdivision of a State in the Chesapeake Bay watershed, or a political subdivision of the government of the District of Columbia;

''(C) an institution of higher education, including a community college;

''(D) a nongovernmental organization in the Chesapeake Bay watershed that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; or

''(E) a private entity that the Director determines to be appropriate.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Subsection (i) of section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d), as redesignated by section 2(1), is amended to read as follows:

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) FY 2002 THROUGH 2005.—There are authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $6,000,000 for each of the fiscal years 2002 through 2005.

''(2) FY 2006 THROUGH 2010.—There are authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $26,000,000 for each of the fiscal years 2006 through 2010. Of the amount appropriated pursuant to such authorization of appropriations—

''(A) for each of the fiscal years 2006 through 2010, $1,000,000 is authorized to be made available to carry out the provisions of subsection (d);

''(B) for each of the fiscal years 2006 through 2010, $6,000,000 is authorized to be made available to carry out the provisions of subsection (e);

''(C) for each of the fiscal years 2006 through 2010, $10,000,000 is authorized to be made available to carry out the provisions of subsection (f);

''(D) for each of the fiscal years 2006 through 2010, $1,000,000 to carry out the provisions of subsection (g).''.

CHESAPEAKE BAY FOUNDATION,
June 28, 2005.

Senator PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: The Chesapeake Bay Foundation (CBF) wishes to submit this letter in support of the package of proposed legislation that you have prepared to further the ongoing efforts to restore the Chesapeake Bay and the tributaries that feed it. We believe that the series of legislative proposals you are submitting, in conjunction with the infusion of new and critical federal funding support, are key elements of reinvigorating the Bay restoration effort.

The bills we have reviewed and support are the following:

The Chesapeake Bay Watershed Nutrient Removal Assistance Act. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed.

Nitrogen and phosphorus pollution are the two largest problems threatening the water quality of the Chesapeake Bay and its rivers and streams. Consequently, in the Chesapeake 2000 Agreement (C2K), the Bay states committed to reduce nutrient pollution (nitrogen and phosphorus pollution) by millions of pounds each year. One of the most effective tools in reducing this pollution is upgrading sewage treatment plants with modern, nutrient pollution removal technologies. Pennsylvania, Maryland and Virginia have all provided new and additional funding to assist in the implementation of these technologies; however, proposed cuts to existing federal funds designated for wastewater treatment upgrades jeopardizes the success of these state initiatives.

The federal government must make a greater commitment to funding. Grant funding, as proposed in this bill, to assist in the design, construction, and operation of these technologies is a critical part of successfully achieving the C2K pollution reduction goals and restoring the Bay.

The Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005. A bill to amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program.

There has been much criticism and questioning in recent years about the implementation of the multijurisdictional Chesapeake Bay Program. There is no doubt that the members of the Program, from state partners to the federal Environmental Protection Agency (EPA), have not moved forward as aggressively as the resource demands, failing to meet deadlines for water quality improvement actions that the signatories themselves established in C2K. In contrast, the Program has provided essential technical data and the underlying science critical to our understanding of the problems facing the Bay and the watershed rivers and streams. The Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005 places a clear mandate on EPA to develop and implement a plan for achieving the nutrient pollution reduction goals of C2K and measure progress through actual water quality improvements. The legislation also requires Bay watershed states to report annually on their progress implementing the plan. Finally, the legislation provides for a much needed assessment by the Office of Management and Budget on the potential benefits of federal monies dedicated to the restoration effort combining into a single fund. This assessment complements the current financing authority efforts of the C2K signatories, an effort looking to develop a vehicle to not only better leverage state and federal monies, but also obtain additional funds. Absent a substantial increase in investment in the Bay, restoration efforts are likely to fail.

The Chesapeake Bay Environmental Education Pilot Program Act: A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed.

We cannot expect the next generation to be responsible stewards of the Bay and the rivers and streams that crisscross its watershed unless we invest in education. We must provide our youth with the knowledge and tools that enable them to choose to be stewards of our natural resources. C2K recognized this need and set a goal of providing every student in the Bay watershed a meaningful field experience before he or she graduates from high school. One single experience alone with the Bay or a river or stream, however, is not adequate to educate students on environmental issues and instill in them a sense of stewardship. The Chesapeake Bay Environmental Education Pilot Program Act will help to accomplish this goal by providing much needed funding for designing and implementing environmental curricula, participation in on-the-ground restoration projects, interactive opportunities with among students, and outdoor educational experiences. These tools and others are key to increasing public environmental awareness and developing educated and responsible stewards of the Bay.

The NOAA Chesapeake Bay Watershed Monitoring, Education, Training and Restoration Act. A bill to establish programs to enhance protection of the Chesapeake Bay, and for other purposes.

This legislation proposes a series of important initiatives from the integration of data

to the establishment of an oyster and submerged aquatic vegetation restoration program. In addition, a critical element is the establishment of the watershed education and training program, which complements the initiatives contained in the Chesapeake Bay Environmental Education Pilot Program Act.

The Chesapeake Bay Watershed Forestry Program Act of 2005. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes.

Forests provide habitat for wildlife, filter polluted runoff, and help moderate stream water temperature. Because of their importance in improving water quality, the Bay states have committed to restoring thousands of acres of forested buffers in the watershed. In addition, they are one of the most cost-effective ways to reduce nitrogen and phosphorus pollutions. Yet, the Chesapeake Bay watershed is continuing to lose forests, in both urban and rural areas, at alarming rates. Preservation and restoration of forests and forest buffers, as encouraged by this legislation, are critical elements in Bay restoration efforts.

This package of legislative initiatives will do much to strengthen and reinvigorate our efforts to Save the Bay. CBF is grateful to you, Senator, for your constant and unwavering commitment to the restoration of waters of the Bay watershed and for your long and distinguished leadership on these issues.

If CBF can provide you with any additional assistance with the important initiatives evidenced by these bills, please let me know.

With sincere appreciation for all you have done for the Bay, I am,

Very truly yours,

ROY A. HOAGLAND,
Vice President, Environmental Protection & Restoration.

CHESAPEAKE BAY COMMISSION,
July 5, 2005.

Hon. PAUL SARBANES,
Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: Federal funding has played a crucial role in supporting the Chesapeake Bay restoration. Thanks in large part to your efforts, federal funds have supported nearly one-fifth of the pojects currently underway and served as a catalyst for countless more.

In October 2004, the Chesapeake Bay Watershed Blue Ribbon Finance Panel issued a report that underscored the enormous challenge facing the Chesapeake and concluded, ''. . . restoring the Chesapeake Bay will require a large-scale national and regional approach, capitalized by federal and state governments and directed according to a watershed-wide strategy.'' The report called for a $15 billion federal and state investment over the next four years to restore the Bay. While $15 billion is an enormous sum, failure to take action and to make the investments needed to restore the health of our nation's largest and most productive estuary will be even more costly. A commitment of this size will require the substantial involvement of all partners, including the federal, state, and local governments and the private sector.

With this financial need firmly in focus, we are writing to convey our tri-state Commission's strong support for your Chesapeake Bay legislative package. Together, these five bills promote the kinds of enhanced funding and technical assistance that are needed to meet the goals of the, Chesapeake 2000 agreement (C2K) and restore the Bay. We hope that the 109th Congress will join us in our support of:

1. The Chesapeake Bay Program Reauthorization and Environmental Accountability Act.
2. The Chesapeake Bay Watershed Nutrient Removal Assistance Act
3. The Chesapeake Bay Environmental Education Pilot Program Act
4. The Chesapeake Bay Watershed Forestry Act
5. The NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act

The Chesapeake Bay Watershed Nutrient Removal Assistance Act is of particular interest to this Commission. As a signatory to C2K, we have committed to reducing the Bay's nitrogen loads by 110 million pounds. Meeting this goal will restore the Bay waters to conditions that are clean, clear, and productive. Last December, the Commission issued a report entitled ''Cost-Effective Strategies for the Bay''; of the six most cost-effective strategies listed in that report, upgrading wastewater treatment plants is Number One. The Act provides grants to upgrade the major wastewater treatment plants in the Bay's six-state watershed with modern nutrient removal technologies. It will allow the region to demonstrate that state-of-the-art nutrient removal is possible on a large scale. It will result in the removal of as much as 30 million pounds of nitrogen each year, or 30 percent of the reduction that is needed. Furthermore, the benefits from upgrading sewage treatment plants have an immediate result on the Bay's water quality, unlike other methods that primarily affect nutrients in ground water and may take years to produce results in the Bay. Only the Federal government is in the position to trigger such remarkable reductions. It is an opportunity that must not be ignored.

Reauthorizing the Environmental Protection Agency's Chesapeake Bay Program is critical to the success of efforts to restore the Bay. This program provides support and coordination for Federal, state, and local efforts developing strategies and actions plans, assessing progress throughout the watershed, implementing projects to protect the Bay and its living resources, and communicating with the public.

The Chesapeake Bay Watershed Forestry Act will help to control pollution by establishing forests and riparian buffers that can filter and absorb sediment and nutrient runoff while providing valuable habitat for animals and birds and food and shelter for fish. Enhanced support for the Bay Program of the Forest Service will ramp up its ability to provide interstate coordination, technical assistance, and forest assessment and planning services that are otherwise limited or unavailable in our region.

Finally, let us emphasize the important support for education that this package provides. Sustaining our hard-won progress in the restoration of the Bay will ultimately rest in the hands of citizens and communities throughout the watershed. Expanding environmental education and training opportunities for a variety of ages, from kindergarten to adult community education and outreach, will lead to a healthier Bay and to a more educated and informed citizenry, yet these kinds of activities are woefully underfunded. The monies provided by the Chesapeake Bay Environmental Education Pilot Program Act and the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act will substantially improve our ability to keep our commitments on track and reach the C2K goals.

The federal government has been a strong partner in efforts to restore the Bay, and your five-bill package maintains and enhances the federal commitment to the Bay. The Commission commends your dedication now and over the past two decades to the health of the Chesapeake Bay. Please instruct us as to how we can further support these measures.

Sincerely,

SENATOR MIKE WAUGH,
Chairman.

By Mr. MCCAIN (for himself and Mr. COBURN):

S. 1495. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. MCCAIN. Mr. President, the bill I am introducing today, along with my friend from Oklahoma, Mr. COBURN, is very simple. The Obligation of Funds Transparency Act of 2005 would prohibit Federal agencies from obligating funds which have been earmarked only in congressional reports. This legislation is designed to help reign in unauthorized, unrequested, run-of-the-mill pork barrel projects.

As my colleagues may know, report language does not have the force of law. That fact has been lost when it comes to appropriations bills and reports. It has become a standard practice to load up committee reports with literally billions of dollars in unrequested, unauthorized, and wasteful pork barrel projects.

According to information compiled from the Congressional Research Service (CRS), the total number of earmarks has grown from 4,126 in fiscal year 1994 to 14,040 in fiscal year 2004. That's an increase of 240 percent. In terms of dollars, the earmarking has gone from $26.6 billion to $47.9 billion over the same period. The practice of earmarking funds in appropriations bills has simply lurched out of control.

At a conference in February, 2005, David Walker, the Comptroller General of the United States, said this: ''If we continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases. GAO's long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have.''

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress that: ''(T)he dimension of the challenge is enormous. The one certainty is that the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising

financial obligations. It falls on the Congress to determine how best to address the competing claims.''

It falls on the Congress my friends. The head of the U.S. Government's chief watchdog agency and the Nation's chief economist agree—we are in real trouble.

We simply must start making some very tough decisions around here if we are serious about improving our fiscal future. We need to be thinking about the future of America and the future generations who are going to be paying the tab for our continued spending. It is simply not fiscally responsible for us to continue to load up appropriations bills with wasteful and unnecessary spending, and good deals for special interests and their lobbyists. We have had ample opportunities to tighten our belts in this town in recent years, and we have taken a pass each and every time. We can't put off the inevitable any longer.

Here is the stark reality of our fiscal situation. According to the Government Accountability Office, the unfunded federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, totals more than $40 trillion or $140,000 per man, woman and child. To put this in perspective, the average mortgage, which is often a family's largest liability, is $124,000—and that is often borne by the family breadwinners, not the children too. But, instead of fixing the problem, and fixing it will not be easy, we only succeeded in making it bigger, more unstable, more complicated, and much, much more expensive.

The Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities jointly stated that, ''without a change in current (fiscal) policies, the federal government can expect to run a cumulative deficit of $5 trillion over the next 10 years.'' They also stated that, ''after the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the costs of Medicare, Medicaid and Social Security growing faster than the economy. We project that by the time today's newborns reach 40 years of age, the cost of these three programs as a percentage of the economy will more than double—from 8.5 percent of the GDP to over 17 percent.

Additionally, the Congressional Budget Office has issued warnings about the dangers that lie ahead if we continue to spend in this manner. In a report issued at the beginning of the year, CBO stated that, because of rising health care costs and an aging population, ''spending on entitlement programs—especially Medicare, Medicaid and Social Security—will claim a sharply increasing share ofthe nation's economic output over the coming decades.'' The report went on to say that, ''unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of federal debt held by the public would have a corrosive. . . effect on the economy.''

Where is it going to end? We have to face the facts, and one fact is that we can't continue to spend taxpayer's dollars on wasteful, unnecessary pork barrel projects or cater to wealthy corporate special interests any longer. The American people won't stand for it, and they shouldn't—they deserve better treatment from us. I urge my colleagues to support this important legislation.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1498. A bill to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, the Northern Colorado Water Conservancy District has contacted me, along with other members of the Colorado Congressional Delegation, seeking the introduction and passage of Federal legislation authorizing the title transfer of specific features of the Colorado-Big Thompson Project from the Untied States to Northern. This title transfer will be similar to a bill that I carried during the 106th Congress, which transferred other Bureau of Rec facilities to Northern. The projects involved in the proposed title transfer are those single-purpose water conveyance facilities used for the distribution of water released from Carter Lake Reservoir: the St. Vrain Supply Canal; the Boulder Feed Canal; the Boulder Creek Supply Canal; and the South Platte Supply Canal.

The entire project, called the Colorado-Big Thompson Project, was built from 1938 to 1957, and provides supplemental water to more than 30 cities and towns. The water is used to help irrigate over 600,000 acres of northeastern Colorado farmland.

The proposed legislation will divest Reclamation of all present and future responsibility for and cost associated with the management, operation, maintenance, repair, rehabilitation and replacement of, and liability for the transferred facilities. This responsibility will become that of the Northern Colorado Water Conservancy District.

The legislation will eliminate the duplication of efforts between the District and Reclamation in issuing and administering crossing licenses and other forms of permission to utilize the land on which the facilities are located. Finally, the legislation will provide for enhanced local control over water facilities that are not of national importance, and allow these facilities to be used for more efficient and effective water management. Local control, especially in the case of matters in relation to water, has always been a major component of my philosophy. I am proud to introduce this bill which will serve to further that intent.

By Mr. BUNNING (for himself and Mr. MCCONNELL):

S. 1499. A bill to amend the Federal Power Act to provide for competitive and reliable electricity transmission in the Commonwealth of Kentucky; to the Committee on Energy and Natural Resources.

Mr. BUNNING. Mr. President, I rise to introduce the Kentucky Competitive Access Program (KCAP) bill that would allow Kentucky electric distribution companies to purchase cheaper power. This means lower rates for many Kentucky consumers served by the Tennessee Valley Authority (TVA). I am pleased Senator MCCONNELL has joined me in introducing this bill.

Kentucky has some of the cheapest electric power available in the Nation. However, some Kentucky consumers in TVA are paying higher electricity rates than Kentucky consumers outside of TVA.

Kentucky electric distribution companies served by the TVA can not provide their customers with access to Kentucky's inexpensive power. This is because under existing federal law the Federal Energy Regulatory Commission (FERC) has limited authority over TVA and can not require it to transmit the cheaper power to most, if not all, of the Kentucky distributors. The legislation removes this restriction and provides the FERC with the authority to require TVA to transmit power to all Kentucky distributors.

In addition to allowing Kentucky customers to access less expensive power, the legislation would not harm TVA or result in higher rates to TVA's remaining customers. The Kentucky distributors, in total, constitute only about 6 percent of TVA's revenues and load. Further, TVA is experiencing load growth of about 3 percent per year which should quickly result in the replacement of any load lost in Kentucky. Thus, the departure of some portion of the Kentucky distributors should not result in any significant cost shift to remaining TVA system customers.

All Kentuckians deserve to choose where they receive their power. This bill will not only give them that choice, but it will also create a more competitive environment among Kentucky distributors and allow our businesses and residential consumers to keep more money in their pockets.

By Mr. CORZINE:

S. 1502. A bill to clarify the applicability of State law to national banks and Federal savings associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Preservation of Federalism in Banking Act, to clarify the relationship between

State consumer protection laws and national banks.

This legislation responds to a sweeping new rule issued by the Office of the Comptroller of the Currency, the agency that regulates national banks. The OCC's new rule gives the agency unprecedented authority to pre-empt state laws, thereby shielding national banks and their non-bank and state-chartered bank affiliates from many important consumer protections. It also potentially limits the ability of states to enforce many related laws. The most important immediate consequence of the OCC rule has been the preemption of state anti-predatory lending laws.

I feel strongly about the need to address predatory lending, which can trap people in endless cycles of debt and escalating fees. Many States, such as my own state of New Jersey, have enacted tough laws to deal with the problem. Unfortunately, the OCC's ruling substantially undermines these laws by regulatory fiat. That will leave many consumers unprotected, and it shifts too many responsibilities to a single agency here in Washington that is not equipped to handle them. After all, according to its own website, the OCC ''does not have the mandate to engage in consumer advocacy''.

Although the OCC has a long and successful record of regulating for safety and soundness, it has little experience dealing with abusive local practices, such as predatory lending. Believe it or not, the OCC actually is proposing to handle all consumer complaints through a single, lightly staffed call center in Houston. This is totally unrealistic. Each year, State officials receive thousands of related complaints, which usually are very local in nature. These officials are at the forefront of the enforcement effort, identifying and combating new practices as they arise. The OCC's system simply could not fill this role without major changes.

The OCC rule also raises concerns about regulatory charter competition, the viability of a broad range of State laws, and the ability of consumers and State officials to seek remedies in court. This concern is only reinforced by two other developments.

First is a general counsel opinion by the Office of Thrift Supervision that attempts to extend federal preemption beyond a thrift's corporate family. That effort would nullify the application of state consumer protection laws over independent, third-party agents of federal thrifts, and is particularly threatening to state insurance and securities efforts.

And second is the FDIC's consideration of a rule that would allow State-chartered banks the same preemptive privileges for out-of-State branches as those of national banks. These two recent developments only reinforce concerns of a ''race to the bottom'' scenario.

The OCC rule has provoked strong opposition from governors, attorneys general, banking supervisors, and many consumer advocacy groups, not to mention the public. The OCC received over 2,600 letters in response to its rules, and more than 90 percent opposed them.

The Preservation of Federalism in Banking Act is a reasonable response to the OCC rule. The bill will clarify that national banks must comply with certain state consumer protection laws, such as anti-predatory lending laws and privacy acts.

While the OCC has long had the statutory responsibility to regulate the activities of national banks, it has never denied the ability of States to protect their citizens. The OCC historically has used its authority under the National Bank Act in a reasonable way to shield national banks from State banking laws that intrude on the OCC's congressionally-granted powers. While we should continue to support the appropriate use of the agency's authority, it is important that we immediately intervene to reverse the OCC's regulatory overreach and prevent the agency from preemption all state consumer protection laws and State authority to enforce related laws.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1502

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 ''Preservation of Federalism in Banking Act''.

TITLE I—NATIONAL BANKS

SEC. 101. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS CLARIFIED.

(a) IN GENERAL.—Chapter One of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

''SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

''(a) STATE CONSUMER LAWS OF GENERAL APPLICATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law, any consumer protection in State consumer law of general application (including any law relating to unfair or deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection) shall apply to any national bank.

''(2) NATIONAL BANK DEFINED.—For purposes of this section, the term 'national bank' includes any Federal branch established in accordance with the International Banking Act of 1978.

''(b) STATE LAWS RELATED TO LAWS USED BY NATIONAL BANKS FOR THEIR BENEFIT.—When a national bank avails itself of a State law for its benefit, all related consumer protections in State law shall apply.

''(c) STATE BANKING LAWS ENACTED PURSUANT TO FEDERAL LAW.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law and except as provided in paragraph (2), any State law that—

''(A) is applicable to State banks; and

''(B) was enacted pursuant to or in accordance with, and is not inconsistent with, an Act of Congress, including the Gramm-Leach-Bliley Act, the Consumer Credit Protection Act, and the Real Estate Settlement Procedures Act, that explicitly or by implication, permits States to exceed or supplement the requirements of any comparable Federal law,

shall apply to any national bank.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any State law if—

''(A) the State law discriminates against national banks; or

''(B) State law is inconsistent with provisions of Federal law other than this title LXII, but only to the extent of the inconsistency (as determined in accordance with the provision of the other Federal Law).

''(d) STATE LAWS PROTECTING AGAINST PREDATORY MORTGAGE LOANS.—To the extent not otherwise addressed in this section, State laws providing greater protection in high cost mortgage loans, however denominated, both in coverage and content, than is provided under the Truth in Lending Act (including the provisions amended by the Home Ownership and Equity Protection Act of 1994) shall apply to any national bank.

''(e) COMPARABLE FEDERAL REGULATION REQUIRED.—In relation to the regulation of consumer credit and deposit transactions, the Comptroller may preempt State law pursuant to this title only when there is a comparable Federal statute, or regulations pursuant to a Federal statute other than this title, expressly governing the activity, except in relation to interest pursuant to section 5197.

''(f) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to national banks, of any State law which is not described in this section.

''(g) EFFECT OF TRANSFER OF TRANSACTION.—A transaction that is not entitled to preemption at the time of the origination of the transaction does not become entitled to preemption under this title by virtue of its subsequent acquisition by a national bank.

''(h) DENIAL OF PREEMPTION NOT A DEPRIVATION OF A CIVIL RIGHT.—The preemption of any provision of the law of any State with respect to any national bank shall not be treated as a right, privilege, or immunity for purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

''(i) DEFINITION.—For purposes of this section, the terms 'includes' and 'including' have the same meaning as in section 3(t) of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter One of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

''5136C. State law preemption standards for national banks and subsidiaries clarified''.

SEC. 102. VISITORIAL STANDARDS.

Section 5136C of the Revised Statutes of the United States (as added by section 101(a) of this Act) is amended by adding at the end the following new subsections:

''(j) VISITORIAL POWERS.—No provision of this title which relates to visitorial powers or otherwise limits or restricts the supervisory, examination, or regulatory authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

''(1) to enforce any applicable Federal or State law, as authorized by such law; or

''(2) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a national bank, as

authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any national bank.

''(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude private parties from enforcing rights granted under Federal or State law in the courts.''.

SEC. 103. CLARIFICATION OF LAW APPLICABLE TO STATE-CHARTERED NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by section 101(a) of this Act) is amended by inserting after subsection (k) (as added by section 102) the following new subsection:

''(l) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS; DEFINITIONS.—

''(1) IN GENERAL.—No provision of this title shall be construed as preempting the applicability of State law to any State-chartered nondepository institution, subsidiary, other affiliate, or agent of a national bank.

''(2) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE.—The terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(B) NONDEPOSITORY INSTITUTION.—The term 'nondepository institution' means any entity that is not a depository institution.''.

SEC. 104. DATA COLLECTION AND REPORTING.

(a) COLLECTING AND MONITORING CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Comptroller of the Currency shall record and monitor each complaint received directly or indirectly from a consumer regarding a national bank or any subsidiary of a national bank and record the resolution of the complaint.

(2) FACTORS TO BE INCLUDED.—In carrying out the requirements of paragraph (1), the Comptroller of the Currency shall include—

(A) the date the consumer complaint was received;

(B) the nature of the complaint;

(C) when and how the complaint was resolved, including a brief description of the extent, and the results, of the investigation made by the Comptroller into the complaint, a brief description of any notices given and inquiries made to any other Federal or State officer or agency in the course of the investigation or resolution of the complaint, a summary of the enforcement action taken upon completion of the investigation, and a summary of the results of subsequent periodic reviews by the Comptroller of the extent and nature of compliance by the national bank or subsidiary with the enforcement action; and

(D) if the complaint involves any alleged violation of a State law (whether or not Federal law preempts the application of such State law to such national bank) by such bank, a cite to and a description of the State law that formed the basis of the complaint.

(b) REPORT TO THE CONGRESS.—

(1) PERIODIC REPORTS REQUIRED.—The Comptroller of the Currency shall submit a report semi-annually to the Congress on the consumer protection efforts of the Office of the Comptroller of the Currency.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include the following:

(A) The total number of consumer complaints received by the Comptroller during the period covered by the report with respect to alleged violations of consumer protection laws by national banks and subsidiaries of national banks.

(B) The total number of consumer complaints received during the reporting period that are based on each of the following:

(i) Each title of the Consumer Credit Protection Act (reported as a separate aggregate number for each such title).

(ii) The Truth in Savings Act.

(iii) The Right to Financial Privacy Act of 1978.

(iv) The Expedited Funds Availability Act.

(v) The Community Reinvestment Act of 1977.

(vi) The Bank Protection Act of 1968.

(vii) Title LXII of the Revised Statutes of the United States.

(viii) The Federal Deposit Insurance Act.

(ix) The Real Estate Settlement Procedures Act of 1974.

(x) The Home Mortgage Disclosure Act of 1975.

(xi) Any other Federal law.

(xii) State consumer protection laws (reported as a separate aggregate number for each State and each State consumer protection law).

(xiii) Any other State law (reported separately for each State and each State law).

(C) A summary description of the resolution efforts by the Comptroller for complaints received during the period covered, including—

(i) the average amount of time to resolve each complaint;

(ii) the median period of time to resolve each complaint;

(iii) the average and median time to resolve complaints in each category of complaints described in each clause of subparagraph (B); and

(iv) a summary description of the longest outstanding complaint during the reporting period and the reason for the difficulty in resolving such complaint in a more timely fashion.

(3) DISCLOSURE OF REPORT ON OCC WEBSITE.—Each report submitted to the Congress under this subsection shall be posted, by the Comptroller of the Currency, in a timely fashion and maintained on the website of the Office of the Comptroller of the Currency on the World Wide Web.

TITLE II—SAVINGS ASSOCIATIONS

SEC. 201. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

(a) IN GENERAL.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

''SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND AFFILIATES CLARIFIED.

''(a) STATE CONSUMER LAWS OF GENERAL APPLICATION.—Notwithstanding any other provision of Federal law, any consumer protection in State consumer law of general application (including any law relating to unfair or deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection) shall apply to any Federal savings association.

''(b) STATE LAWS RELATED TO LAWS USED BY FEDERAL SAVINGS ASSOCIATIONS FOR THEIR BENEFIT.—When a Federal savings association avails itself of a State law for its benefit, all related consumer protections in State law shall apply.

''(c) STATE BANKING OR THRIFT LAWS ENACTED PURSUANT TO FEDERAL LAW.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law and except as provided in paragraph (2), any State law that—

''(A) is applicable to State savings associations (as defined in section 3 of the Federal Deposit Insurance Act); and

''(B) was enacted pursuant to or in accordance with, and is not inconsistent with, an Act of Congress, including the Gramm-Leach-Bliley Act, the Consumer Credit Protection Act, and the Real Estate Settlement Procedures Act, that explicitly or by implication, permits States to exceed or supplement the requirements of any comparable Federal law,

shall apply to any Federal savings association.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any State law if—

''(A) the State law discriminates against Federal savings associations; or

''(B) the State law is inconsistent with provisions of Federal law other than this Act, but only to the extent of the inconsistency (as determined in accordance with the provision of the other Federal law).

''(d) STATE LAWS PROTECTING AGAINST PREDATORY MORTGAGE LOANS.—To the extent not otherwise addressed in this section, State laws providing greater protection in high cost mortgage loans, however denominated, both in coverage and content, than is provided under the Truth in Lending Act (including the provisions amended by the Home Ownership and Equity Protection Act of 1994) shall apply to any Federal savings association.

''(e) COMPARABLE FEDERAL REGULATION REQUIRED.—In relation to the regulation of consumer credit and deposit transactions, the Director of the Office of Thrift Supervision may preempt State law pursuant to this Act only when there is a comparable Federal statute, or regulations pursuant to a Federal statute other than this Act, expressly governing the activity, except in relation to interest pursuant to section 4(g).

''(f) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to Federal savings associations, of any State law which is not described in this section.

''(g) EFFECT OF TRANSFER OF TRANSACTION.—A transaction that is not entitled to preemption at the time of the origination of the transaction does not become entitled to preemption under this Act by virtue of its subsequent acquisition by a Federal savings association.

''(h) DENIAL OF PREEMPTION NOT A DEPRIVATION OF A CIVIL RIGHT.—The preemption of any provision of the law of any State with respect to any Federal savings association shall not be treated as a right, privilege, or immunity for purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

''(i) DEFINITION.—For purposes of this section, the terms 'includes' and 'including' have the same meaning as in section 3(t) of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

''6. State law preemption standards for Federal savings associations and affiliates clarified''.

SEC. 202. VISITORIAL STANDARDS.

Section 6 of the Home Owners' Loan Act (as added by section 201(a) of this title) is amended by adding at the end the following new subsections:

''(j) VISITORIAL POWERS.—No provision of this Act shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

''(1) to enforce any applicable Federal or State law, as authorized by such law; or

''(2) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a Federal savings

association, as authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any Federal savings association.

''(k) ENFORCEMENT ACTIONS.—The ability of the Director of the Office of Thrift Supervision to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act does not preclude private parties from enforcing rights granted under Federal or State law in the courts.''.

SEC. 203. CLARIFICATION OF LAW APPLICABLE TO STATE-CHARTERED NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 6 of the Home Owners' Loan Act (as added by section 201(a) of this title) is amended by inserting after subsection (k) (as added by section 202) the following new subsection:

''(l) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION AFFILIATES OF FEDERAL SAVINGS ASSOCIATIONS.—

''(1) IN GENERAL.—No provision of this Act shall be construed as preempting the applicability of State law to any State-chartered nondepository institution, subsidiary, other affiliate, or agent of a Federal savings association.

''(2) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE.—The terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(B) NONDEPOSITORY INSTITUTION.—The term 'nondepository institution' means any entity that is not a depository institution.''.

SEC. 204. DATA COLLECTION AND REPORTING.

(a) COLLECTING AND MONITORING CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision shall record and monitor each complaint received directly or indirectly from a consumer regarding a Federal savings association or any subsidiary of a Federal savings association and record the resolution of the complaint.

(2) FACTORS TO BE INCLUDED.—In carrying out the requirements of paragraph (1), the Director of the Office of Thrift Supervision shall include—

(A) the date the consumer complaint was received;

(B) the nature of the complaint;

(C) when and how the complaint was resolved, including a brief description of the extent, and the results, of the investigation made by the Director into the complaint, a brief description of any notices given and inquiries made to any other Federal or State officer or agency in the course of the investigation or resolution of the complaint, a summary of the enforcement action taken upon completion of the investigation, and a summary of the results of subsequent periodic reviews by the Comptroller of the extent and nature of compliance by the Federal savings association or subsidiary with the enforcement action; and

(D) if the complaint involves any alleged violation of a State law (whether or not Federal law preempts the application of such State law to such Federal savings association) by such savings association, a cite to and a description of the State law that formed the basis of the complaint.

(b) REPORT TO THE CONGRESS.—

(1) PERIODIC REPORTS REQUIRED.—The Director of the Office of Thrift Supervision shall submit a report semi-annually to the Congress on the consumer protection efforts of the Office of Thrift Supervision.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include the following:

(A) The total number of consumer complaints received by the Director during the period covered by the report with respect to alleged violations of consumer protection laws by Federal savings associations and subsidiaries of Federal savings associations.

(B) The total number of consumer complaints received during the reporting period that are based on each of the following:

(i) Each title of the Consumer Credit Protection Act (reported as a separate aggregate number for each such title).

(ii) The Truth in Savings Act.

(iii) The Right to Financial Privacy Act of 1978.

(iv) The Expedited Funds Availability Act.

(v) The Community Reinvestment Act of 1977.

(vi) The Bank Protection Act of 1968.

(vii) Title LXII of the Revised Statutes of the United States.

(viii) The Federal Deposit Insurance Act.

(ix) The Real Estate Settlement Procedures Act of 1974.

(x) The Home Mortgage Disclosure Act of 1975.

(xi) Any other Federal law.

(xii) State consumer protection laws (reported as a separate aggregate number for each State and each State consumer protection law).

(xiii) Any other State law (reported separately for each State and each State law).

(C) A summary description of the resolution efforts by the Director for complaints received during the period covered, including—

(i) the average amount of time to resolve each complaint;

(ii) the median period of time to resolve each complaint;

(iii) the average and median time to resolve complaints in each category of complaints described in each clause of subparagraph (B); and

(iv) a summary description of the longest outstanding complaint during the reporting period and the reason for the difficulty in resolving such complaint in a more timely fashion.

(3) DISCLOSURE OF REPORT ON OTS WEBSITE.—Each report submitted to the Congress under this subsection shall be posted, by the Director of the Office of Thrift Supervision, in a timely fashion and maintained on the website of the Office of Thrift Supervision on the World Wide Web.

By Mr. FRIST (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, and Mr. DEMINT):

S. 1503. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the health care safety net, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, wherever I travel, Americans tell me the same things about our health care system: it costs too much, leaves too many without insurance, and does too little to help those in need.

America has the world's best hospitals, doctors, nurses, and medical research labs. But we do not always provide the best care. And we certainly do not provide it at an affordable price. We face real problems. And we need to act.

Two years ago, I appointed a task force to investigate what Congress could do. Under the leadership of Senator JUDD GREGG, the task force reported back with a series of comprehensive recommendations. The President has also proposed some very constructive policy initiatives. We took all of these proposals into account when we wrote this bill.

The legislation we propose today will build upon our record of accomplishment on health care. The Republican Congress has created a Medicare drug benefit for seniors, made tax-free, portable Health Savings Accounts available to all Americans, and has begun the process of moving our medical system into the information age.

This week, we will pass and send to the President a long-overdue measure to encourage doctors and hospitals to report medical errors voluntarily. The measure will save lives, and it will improve health care quality.

But we still have more to do.

The legislation we are proposing today focuses on three broad areas: reducing costs, expanding health coverage, and improving the quality of care. In this bill—''The Healthy America Act of 2005''—we provide comprehensive solutions that will improve health care for every American.

Let me begin by speaking about cost. Every year, Americans see their health care costs soar. Just 15 years ago, less than 1 out of every 10 dollars Americans spent went for health care. In 10 years, almost one out of every five dollars you spend will go towards health care.

Rising life expectancies and the cost of new technologies, treatments, and medical procedures all drive up costs. But we can do more to hold them in check. And we must.

Rapidly rising health costs threaten our Nation's small business owners, and our largest corporations. They can harm our economy; cost jobs, and hurt Americans from all walks of life. During the past few years, for example, health care costs have grown three to four times more quickly than wages.

First, we need to reform our broken medical liability system. Under our current medical system, doctors face enormous incentives to order unnecessary tests and procedures simply to avoid the risk of lawsuits.

It's expensive, it's wasteful, and unnecessary, and, most of all, it's dangerous. It needs to change and, under this bill, it will.

Hospitals, doctors, patients, and insurers all shoulder some responsibility for rising costs. To keep costs down, we need to put the patient at the heart of health care. That's why we propose reforms to let patients own and control privacy-protected electronic medical records, cut down on fraud in our Medicare and Medicaid programs, reduce medical errors, and reduce unnecessary regulations and mandates.

Lower costs alone will help many Americans get the care they need and deserve. But we also have to look at ways to cover more Americans who would still find themselves left behind.

Through changes to tax laws, we can make it easier for lower-income individuals and small businesses to purchase affordable, high quality health insurance.

And we can also provide more options for those who take charge of their own health care by making flexible spending accounts more flexible and health savings accounts even more affordable for individuals and small businesses.

Finally, the Federal Government can help support State high-risk pools that help provide health coverage to individuals who couldn't otherwise afford care.

America is a caring Nation and we must recognize that not everyone has equal ability to take care of his or her own health. That's why we need to expand our safety net for the truly needy.

Many of those without health insurance—particularly children—qualify for benefits under existing programs but do not receive them. By providing grants to faith-based and community organizations, we can help more families sign up their children for available health coverage.

We also need to expand the availability of health care services to individuals in need by expanding Community Health Centers and Rural Health Clinics to more rural areas and poor counties.

We should also act to make prescription drugs more affordable for low-income Americans and provide legal protections and loan forbearance that will make it easier for health care practitioners who volunteer their time and services to provide needed care in community health centers and free clinics.

Every American should have health care that's available, affordable, and always there.

And we must hold fast to this principle: patients should sit at the center of the health care system, not the government, not insurance companies, and certainly not predatory trial lawyers.

The system should free providers to focus on caring for their patients: not dealing with regulations, bureaucrats, or lawyers.

Today, we've put forward a plan that will take a major step towards centering America's health care system on the patient.

We have the vision for what American health care should look like. Now we only need the courage to make it happen.

I want to thank Senator GREGG, and all of the members of the Task Force who worked so diligently on this legislation. I also want to recognize the contributions of the other cosponsors of this legislation: Senators MITCH MCCONNELL, MIKE ENZI, LISA MURKOWSKI, and JIM DEMINT, I urge all of my colleagues to join us 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. 1503

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Healthy America Act of 2005''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Health care costs are growing rapidly, putting health insurance and needed care out of reach for too many Americans.

(2) Rapidly growing health care costs pose a threat to the United States economy, as they make American businesses less competitive and make it more difficult to create new jobs.

(3) Growing health care costs are compromising the stability of health care safety net and entitlement programs.

(4) There are a series of steps Congress can and should take to slow the growth of health care costs, expand access to health coverage, and improve access to quality health care for millions of Americans.

TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—Medical Liability Reform

SEC. 101. SHORT TITLE.

This subtitle may be cited as the ''Patients First Act of 2005''.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the current health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this subtitle to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 103. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 104. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 105. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 106. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. 107. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PENALTIES FOR PROVIDERS IN COMPLIANCE WITH FDA STANDARDS.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product.

SEC. 108. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 109. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term ''compensatory damages'' includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term ''health care organization'' means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans, and the terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food,

Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 110. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this subtitle does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this subtitle in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this subtitle or otherwise applicable law (as determined under this subtitle) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this subtitle shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 111. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this subtitle preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this subtitle. The provisions governing health care lawsuits set forth in this subtitle supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this subtitle; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this subtitle (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This subtitle does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this subtitle.

(c) STATE FLEXIBILITY.—No provision of this subtitle shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this subtitle) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this subtitle, notwithstanding section 104(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 112. APPLICABILITY; EFFECTIVE DATE.

This subtitle shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Health Information Technology

CHAPTER 1—GENERAL PROVISIONS

SEC. 121. IMPROVING HEALTH CARE, QUALITY, SAFETY, AND EFFICIENCY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXIX—HEALTH INFORMATION TECHNOLOGY

''SEC. 2901. DEFINITIONS.

''In this title:

''(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

''(2) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(3) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means—

''(A) a health insurance issuer (as defined in section 2791(b)(2));

''(B) a group health plan (as defined in section 2791(a)(1)); and

''(C) a health maintenance organization (as defined in section 2791(b)(3)).

''(4) LABORATORY.—The term 'laboratory' has the meaning given that term in section 353.

''(5) PHARMACIST.—The term 'pharmacist' has the meaning given that term in section 804 of the Federal Food, Drug, and Cosmetic Act.

''(6) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''SEC. 2902. OFFICE OF THE NATIONAL COORDINATOR OF HEALTH INFORMATION TECHNOLOGY.

''(a) OFFICE OF NATIONAL HEALTH INFORMATION TECHNOLOGY.—There is established within the Office of the Secretary an Office of the National Coordinator of Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary, in consultation with the President, and shall report directly to the Secretary.

''(b) Purpose.—It shall be the purpose of the Office to coordinate with relevant Federal agencies and oversee programs and activities to develop a nationwide interoperable health information technology infrastructure that—

''(1) ensures that patients' individually identifiable health information is secure and protected;

''(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

''(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, and incomplete information;

''(4) ensures that appropriate information to help guide medical decisions is available at the time and place of care;

''(5) promotes a more effective marketplace, greater competition, and increased choice through the wider availability of accurate information on health care costs, quality, and outcomes; and

''(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

''(c) DUTIES OF THE NATIONAL COORDINATOR.—The National Coordinator shall—

''(1) provide support to the public-private American Health Information Collaborative established under section 2903;

''(2) serve as the principal advisor to the Secretary concerning the development, application, and use of health information technology, and coordinate and oversee the health information technology programs of the Department;

''(3) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

''(4) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

''(5) ensure that health information technology policy and programs of the Department are coordinated with those of relevant executive branch agencies (including Federal commissions) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability;

''(6) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders;

''(7) advise the President regarding specific Federal health information technology programs; and

''(8) submit the reports described under section 2903(i) (excluding paragraph (4) of such section).

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such efforts were carried out prior to or after the enactment of this title.

"SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

''(a) PURPOSE.—The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the 'Collaborative') to—

''(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

''(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

''(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information for adoption by the Federal Government and voluntary adoption by private entities.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Collaborative shall be composed of—

''(A) the Secretary, who shall serve as the chairperson of the Collaborative;

''(B) the Secretary of Defense, or his or her designee;

''(C) the Secretary of Veterans Affairs, or his or her designee;

''(D) the Secretary of Commerce, or his or her designee;

''(E) representatives of other relevant Federal agencies, as determined appropriate by the Secretary; and

''(F) representatives from among the following categories to be appointed by the Secretary from nominations submitted by the public—

''(i) consumer and patient organizations;

''(ii) experts in health information privacy and security;

''(iii) health care providers;

''(iv) health insurance plans or other third party payors;

''(v) standards development organizations;

''(vi) information technology vendors;

''(vii) purchasers or employers; and

''(viii) State or local government agencies or Indian tribe or tribal organizations.

''(2) CONSIDERATIONS.—In appointing members under paragraph (1)(F), the Secretary shall select individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including those individuals with experience in utilizing health information technology to improve health care quality and patient safety;

''(D) data exchange; and

''(E) developing health information technology standards and new health information technology.

''(3) TERMS.—Members appointed under paragraph (1)(G) shall serve for 2 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

''(c) RECOMMENDATIONS AND POLICIES.—The Collaborative shall make recommendations to identify uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

''(1) protection of individually identifiable health information through privacy and security practices;

''(2) measures to prevent unauthorized access to health information;

''(3) methods to facilitate secure patient access to health information;

''(4) the ongoing harmonization of industry-wide health information technology standards;

''(5) recommendations for a nationwide interoperable health information technology infrastructure;

''(6) the identification and prioritization of specific use cases for which health information technology is valuable, beneficial, and feasible;

''(7) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

''(8) other policies determined to be necessary by the Collaborative.

''(d) STANDARDS.—

''(1) EXISTING STANDARDS.—The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

''(2) FIRST YEAR REVIEW.—Not later than 1 year after the date of enactment of this title, the Collaborative shall—

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

''(B) identify deficiencies and omissions in such existing standards; and

''(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

''(3) ONGOING REVIEW.—Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

''(B) identify deficiencies and omissions in such existing standards; and

''(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

''(4) LIMITATION.—The standards described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

''(e) FEDERAL ACTION.—Not later than 60 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, in consultation with the Secretary of Veterans Affairs, the Secretary of Defense, and representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall review such recommendations. The Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

''(f) COORDINATION OF FEDERAL SPENDING.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any form of health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

''(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), all Federal agencies collecting health data for the purposes of surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary shall comply with standards adopted under subsection (e).

''(h) VOLUNTARY ADOPTION.—

''(1) IN GENERAL.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards adopted by the Federal Government under section 2903 with respect to activities not related to the contract.

''(3) LIMITATION.—Private entities that enter into a contract with the Federal Government shall adopt the standards adopted under section 2903 for the purpose of activities under such Federal contract.

''(i) EFFECT ON OTHER PROVISIONS.—Nothing in this title shall be construed to effect the scope or substance of—

''(1) section 264 of the Health Insurance Portability and Accountability Act of 1996;

''(2) sections 1171 through 1179 of the Social Security Act; and

''(3) any regulation issued pursuant to any such section;

and such sections shall remain in effect and shall apply to the implementation of standards, programs and activities under this title.

''(j) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

''(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

''(2) describes barriers to the adoption of such a nationwide system;

''(3) contains recommendations to achieve full implementation of such a nationwide system; and

''(4) contains a plan and progress toward the establishment of an entity to ensure the continuation of the functions of the Collaborative.

''(k) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 14(a)(2) shall be 5 years.

''(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

"SEC. 2904. IMPLEMENTATION AND CERTIFICATION OF HEALTH INFORMATION STANDARDS.

''(a) IMPLEMENTATION.—

''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

''(2) IMPLEMENTATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist private entities in the implementation of the standards adopted under

this title using the criteria developed by the Secretary under this section.

''(b) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware, software, and support services that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

''(2) CERTIFICATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist in the certification described under paragraph (1) using the criteria developed by the Secretary under this section.

''(c) DELEGATION AUTHORITY.—The Secretary, through consultation with the Collaborative, may delegate the development of the criteria under subsections (a) and (b) to a private entity.

''SEC. 2905. STUDY OF STATE HEALTH INFORMATION LAWS AND PRACTICES.

''(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

''(1) the variation among State laws and practices that relate to the privacy, confidentiality, and security of health information;

''(2) how such variation among State laws and practices may impact the electronic exchange of health information—

''(A) among the States;

''(B) between the States and the Federal Government; and

''(C) among private entities; and

''(3) how such laws and practices may be harmonized to permit the secure electronic exchange of health information.

''(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to Congress a report that—

''(1) describes the results of the study carried out under subsection (a); and

''(2) makes recommendations based on the results of such study.

''SEC. 2906. SECURE EXCHANGE OF HEALTH INFORMATION; INCENTIVE GRANTS.

''(a) IN GENERAL.—The Secretary may make grants to States to carry out programs under which such States cooperate with other States to develop and implement State policies that will facilitate the secure electronic exchange of health information utilizing the standards adopted under section 2903—

''(1) among the States;

''(2) between the States and the Federal Government; and

''(3) among private entities.

''(b) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to States that provide assurance that any funding awarded under such a grant shall be used to harmonize privacy laws and practices between the States, the States and the Federal Government, and among private entities related to the privacy, confidentiality, and security of health information.

''(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information regarding the efficacy of efforts of a recipient of a grant under this section.

''(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of a grant under this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

''SEC. 2907. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

''(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

''(1) the variation among State laws that relate to the licensure, registration, and certification of medical professionals; and

''(2) how such variation among State laws impacts the secure electronic exchange of health information—

''(A) among the States; and

''(B) between the States and the Federal Government.

''(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall publish a report that—

''(1) describes the results of the study carried out under subsection (a); and

''(2) makes recommendations to States regarding the harmonization of State laws based on the results of such study.

''SEC. 2908. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—For the purpose of carrying out this title, there is authorized to be appropriated $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.

''(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available through fiscal year 2010.''.

SEC. 122. HIPAA REPORT.

(a) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines the integration of the standards adopted under the amendments made by this subtitle with the standards adopted under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(b) PLAN; REPORT.—

(1) PLAN.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall, based on the results of the study carried out under subsection (a), develop a plan for the integration of the standards described under such subsection and submit a report to Congress describing such plan.

(2) PERIODIC REPORTS.—The Secretary shall submit periodic reports to Congress that describe the progress of the integration described under paragraph (1).

SEC. 123. STUDY OF REIMBURSEMENT INCENTIVES.

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

SEC. 124. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.

Section 330L(b) of the Public Health Service Act (42 U.S.C. 254c–18(b)) is amended by striking ''2002 through 2006'' and inserting ''2006 through 2010''.

SEC. 125. SENSE OF THE SENATE ON PHYSICIAN PAYMENT.

It is the sense of the Senate that modifications to the medicare fee schedule for physicians' services under section 1848 of the Social Security Act (42 U.S.C. 1394w–4) should include provisions based on the reporting of quality measures pursuant to those adopted in section 2909 of the Public Health Service Act (as added by section 121) and the overall improvement of healthcare quality through the use of the electronic exchange of health information pursuant to the standards adopted under section 2903 of such Act (as added by section 121).

SEC. 126. ESTABLISHMENT OF QUALITY MEASUREMENT SYSTEMS FOR MEDICARE VALUE-BASED PURCHASING PROGRAMS.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following new part:

''PART E—VALUE-BASED PURCHASING

''QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED PURCHASING PROGRAMS

''SEC. 1860E–1. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall develop quality measurement systems for purposes of providing value-based payments to—

''(A) hospitals pursuant to section 1860E–2;

''(B) physicians and practitioners pursuant to section 1860E–3;

''(C) plans pursuant to section 1860E–4;

''(D) end stage renal disease providers and facilities pursuant to section 1860E–5; and

''(E) home health agencies pursuant to section 1860E–6.

''(2) QUALITY.—The systems developed under paragraph (1) shall measure the quality of the care furnished by the provider involved.

''(3) HIGH QUALITY HEALTH CARE DEFINED.—In this part, the term 'high quality health care' means health care that is safe, effective, patient-centered, timely, equitable, efficient, necessary, and appropriate.

''(b) REQUIREMENTS FOR SYSTEMS.—Under each quality measurement system described in subsection (a)(1), the Secretary shall do the following:

''(1) MEASURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall select measures of quality to be used by the Secretary under each system.

''(B) REQUIREMENTS.—In selecting the measures to be used under each system pursuant to subparagraph (A), the Secretary shall, to the extent feasible, ensure that—

''(i) such measures are evidence-based, reliable and valid, and feasible to collect and report;

''(ii) measures of process, structure, outcomes, beneficiary experience, efficiency, and equity are included;

''(iii) measures of overuse and underuse of health care items and services are included;

''(iv)(I) at least 1 measure of health information technology infrastructure that enables the provision of high quality health care and facilitates the exchange of health information, such as the use of one or more elements of a qualified health information system (as defined in subparagraph (E)), is included during the first year each system is implemented; and

''(II) additional measures of health information technology infrastructure are included in subsequent years;

''(v) in the case of the system that is used to provide value-based payments to hospitals under section 1860E–2, by not later than January 1, 2008, at least 5 measures that take into account the unique characteristics of small hospitals located in rural areas and frontier areas are included; and

''(vi) measures that assess the quality of care furnished to frail individuals over the age of 75 and to individuals with multiple complex chronic conditions are included.

''(C) REQUIREMENT FOR COLLECTION OF DATA ON A MEASURE FOR 1 YEAR PRIOR TO USE UNDER THE SYSTEMS.—Data on any measure selected by the Secretary under subparagraph (A) must be collected by the Secretary for at least a 12-month period before such measure may be used to determine whether a provider receives a value-based payment under a program described in subsection (a)(1).

''(D) AUTHORITY TO VARY MEASURES.—

''(i) UNDER SYSTEM APPLICABLE TO HOSPITALS.—In the case of the system applicable to hospitals under section 1860E–2, the Secretary may vary the measures selected under subparagraph (A) by hospital depending on the size of, and the scope of services provided by, the hospital.

''(ii) UNDER SYSTEM APPLICABLE TO PHYSICIANS AND PRACTITIONERS.—In the case of the system applicable to physicians and practitioners under section 1860E–3, the Secretary may vary the measures selected under subparagraph (A) by physician or practitioner depending on the specialty of the physician, the type of practitioner, or the volume of services furnished to beneficiaries by the physician or practitioner.

''(iii) UNDER SYSTEM APPLICABLE TO ESRD PROVIDERS AND FACILITIES.—In the case of the system applicable to providers of services and renal dialysis facilities under section 1860E–5, the Secretary may vary the measures selected under subparagraph (A) by provider or facility depending on the type of, the size of, and the scope of services provided by, the provider or facility.

''(iv) UNDER SYSTEM APPLICABLE TO HOME HEALTH AGENCIES.—In the case of the system applicable to home health agencies under section 1860E–6, the Secretary may vary the measures selected under subparagraph (A) by agency depending on the size of, and the scope of services provided by, the agency.

''(E) QUALIFIED HEALTH INFORMATION SYSTEM DEFINED.—For purposes of subparagraph (B)(iv)(I), the term 'qualified health information system' means a computerized system (including hardware, software, and training) that—

''(i) protects the privacy and security of health information and properly encrypts such health information;

''(ii) maintains and provides access to patients' health records in an electronic format;

''(iii) incorporates decision support software to reduce medical errors and enhance health care quality;

''(iv) is consistent with data standards and certification processes recommended by the Secretary;

''(v) allows for the reporting of quality measures; and

''(vi) includes other features determined appropriate by the Secretary.

''(2) WEIGHTS OF MEASURES.—

''(A) IN GENERAL.—The Secretary shall assign weights to the measures used by the Secretary under each system.

''(B) CONSIDERATION.—If the Secretary determines appropriate, in assigning the weights under subparagraph (A)—

''(i) measures of clinical effectiveness shall be weighted more heavily than measures of beneficiary experience; and

''(ii) measures of risk adjusted outcomes shall be weighted more heavily than measures of process; and

''(3) RISK ADJUSTMENT.—The Secretary shall establish procedures, as appropriate, to control for differences in beneficiary health status and beneficiary characteristics. To the extent feasible, such procedures may be based on existing models for controlling for such differences.

''(4) MAINTENANCE.—

''(A) IN GENERAL.—The Secretary shall, as determined appropriate, but not more often than once each 12-month period, update each system, including through—

''(i) the addition of more accurate and precise measures under the systems and the retirement of existing outdated measures under the system;

''(ii) the refinement of the weights assigned to measures under the system; and

''(iii) the refinement of the risk adjustment procedures established pursuant to paragraph (3) under the system.

''(B) UPDATE SHALL ALLOW FOR COMPARISON OF DATA.—Each update under subparagraph (A) of a quality measurement system shall allow for the comparison of data from one year to the next for purposes of providing value-based payments under the programs described in subsection (a)(1).

''(5) USE OF MOST RECENT QUALITY DATA.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall use the most recent quality data with respect to the provider involved that is available to the Secretary.

''(B) INSUFFICIENT DATA DUE TO LOW VOLUME.—If the Secretary determines that there is insufficient data with respect to a measure or measures because of a low number of services provided, the Secretary may aggregate data across more than 1 fiscal or calendar year, as the case may be.

''(c) REQUIREMENTS FOR DEVELOPING AND UPDATING THE SYSTEMS.—In developing and updating each quality measurement system under this section, the Secretary shall—

''(1) take into account the quality measures developed by nationally recognized quality measurement organizations, researchers, health care provider organizations, and other appropriate groups;

''(2) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

''(3) consult with provider-based groups and clinical specialty societies;

''(4) take into account existing quality measurement systems that have been developed through a rigorous process of validation and with the involvement of entities and persons described in subsection (e)(2)(B); and

''(5) take into account—

''(A) each of the reports by the Medicare Payment Advisory Commission that are required under the Medicare Value Purchasing Act of 2005;

''(B) the results of—

''(i) the demonstrations required under such Act;

''(ii) the demonstration program under section 1866A;

''(iii) the demonstration program under section 1866C; and

''(iv) any other demonstration or pilot program conducted by the Secretary relating to measuring and rewarding quality and efficiency of care; and

''(C) the report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

''(d) REQUIREMENTS FOR IMPLEMENTING THE SYSTEMS.—In implementing each quality measurement system under this section, the Secretary shall consult with entities—

''(1) that have joined together to develop strategies for quality measurement and reporting, including the feasibility of collecting and reporting meaningful data on quality measures; and

''(2) that involve representatives of health care providers, health plans, consumers, employers, purchasers, quality experts, government agencies, and other individuals and groups that are interested in quality of care.

''(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE ADVICE AND RECOMMENDATIONS.—

''(1) ARRANGEMENT.—On and after July 1, 2006, the Secretary shall have in place an arrangement with an entity that meets the requirements described in paragraph (2) under which such entity provides the Secretary with advice on, and recommendations with respect to, the development and updating of the quality measurement systems under this section, including the assigning of weights to the measures under subsection (b)(2).

''(2) REQUIREMENTS DESCRIBED.—The requirements described in this paragraph are the following:

''(A) The entity is a private nonprofit entity governed by an executive director and a board.

''(B) The members of the entity include representatives of—

''(i)(I) health plans and providers receiving reimbursement under this title for the provision of items and services, including health plans and providers with experience in the care of the frail elderly and individuals with multiple complex chronic conditions; or

''(II) groups representing such health plans and providers;

''(ii) groups representing individuals receiving benefits under this title;

''(iii) purchasers and employers or groups representing purchasers or employers;

''(iv) organizations that focus on quality improvement as well as the measurement and reporting of quality measures;

''(v) State government health programs;

''(vi) persons skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

''(vii) persons or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

''(C) The membership of the entity is representative of individuals with experience with—

''(i) urban health care issues;

''(ii) safety net health care issues; and

''(iii) rural and frontier health care issues.

''(D) The entity does not charge a fee for membership for participation in the work of the entity related to the arrangement with the Secretary under paragraph (1). If the entity does require a fee for membership for participation in other functions of the entity, there shall be no linkage between such fee and participation in the work of the entity related to such arrangement with the Secretary.

''(E) The entity—

''(i) permits any member described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

''(ii) ensures that such members have an equal vote on such matters .

''(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

''(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).''.

(b) CONFORMING REFERENCES TO PREVIOUS PART E.—Any reference in law (in effect before the date of the enactment of this Act) to part E of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

SEC. 127. EXCEPTION TO FEDERAL ANTI-KICKBACK AND PHYSICIAN SELF REFERRAL LAWS FOR THE PROVISION OF PERMITTED SUPPORT.

(a) ANTI-KICKBACK.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) in subparagraph (H), as added by section 237(d) of the Medicare Prescription

Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting a semicolon;

(C) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I);

(D) in subparagraph (I), as so redesignated—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new:

''(J) during the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in paragraph (4)).''; and

(2) by adding at the end the following new paragraph:

''(4) PERMITTED SUPPORT.—

''(A) DEFINITION OF PERMITTED SUPPORT.—Subject to subparagraph (B), in this section, the term 'permitted support' means the provision of any equipment, item, information, right, license, intellectual property, software, training, or service used for developing, implementing, operating, or facilitating the use of systems designed to improve the quality of health care and to promote the electronic exchange of health information.

''(B) EXCEPTION.—The term 'permitted support' shall not include the provision of—

''(i) any support that is determined in a manner that is related to the volume or value of any referrals or other business generated between the parties for which payment may be made in whole or in part under a Federal health care program;

''(ii) any support that has more than incidental utility or value to the recipient beyond the exchange of health care information; or

''(iii) any health information technology system, product, or service that is not capable of exchanging health care information in compliance with data standards consistent with interoperability.

''(C) DETERMINATION.—In establishing regulations with respect to the requirement under subparagraph (B)(iii), the Secretary shall take in account—

''(I) whether the health information technology system, product, or service is widely accepted within the industry and whether there is sufficient industry experience to ensure successful implementation of the system, product, or service; and

''(II) whether the health information technology system, product, or service improves quality of care, enhances patient safety, or provides greater administrative efficiencies.''.

(b) PHYSICIAN SELF-REFERRAL.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

''(9) PERMITTED SUPPORT.—During the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in section 1128B(b)(4)).''.

(c) REGULATIONS.—In order to carry out the amendments made by this section—

(1) the Secretary shall issue an interim final rule with comment period by not later than the date that is 180 days after the date of enactment of this Act;

(2) the Secretary shall issue a final rule by not later than the date that is 180 days after the date that the interim final rule under paragraph (1) is issued.

CHAPTER 2—VALUE BASED PURCHASING

SEC. 131. VALUE BASED PURCHASING PROGRAMS; SENSE OF THE SENATE.

(a) MEDICARE VALUE BASED PURCHASING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) a value based purchasing pilot program based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126). Such pilot program should be based on experience gained through previous demonstration projects conducted by the Secretary, including demonstration projects conducted under sections 1866A and 1866C of the Social Security Act (42 U.S.C. 1395cc–1; 1395cc–3), section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), and other relevant work conducted by private entities.

(2) EXPANSION.—Not later than 2 years after conducting the pilot program under paragraph (1), the Secretary shall transition and implement such program on a national basis.

(3) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(4) FUNDING.—The Secretary shall ensure that the total amount of expenditures under this Act in a year does not exceed the total amount of expenditures that would have been expended in such year under this Act if this subsection had not been enacted.

(b) MEDICAID VALUE BASED PURCHASING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall authorize waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) for States to establish value based purchasing programs for State medicaid programs established under title XIX of such Act (42 U.S.C. 1396 et seq.). Such programs shall be based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126).

(2) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(3) WAIVER.—In authorizing such waivers, the Secretary shall waive any provisions of title XI or XIX of the Social Security Act that would otherwise prevent a State from establishing a value based purchasing program in accordance with paragraph (1).

Subtitle C—Patient Safety and Quality Improvement

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Patient Safety and Quality Improvement Act of 2005''.

SEC. 142. FINDINGS AND PURPOSES.

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

(1) In 1999, the Institute of Medicine released a report entitled To Err is Human that described medical errors as the eighth leading cause of death in the United States, with as many as 98,000 people dying as a result of medical errors each year.

(2) To address these deaths and injuries due to medical errors, the health care system must identify and learn from such errors so that systems of care can be improved.

(3) In their report, the Institute of Medicine called on Congress to provide legal protections with respect to information reported for the purposes of quality improvement and patient safety.

(4) The Health, Education, Labor, and Pensions Committee of the Senate held 4 hearings in the 106th Congress and 1 hearing in the 107th Congress on patient safety where experts in the field supported the recommendation of the Institute of Medicine for congressional action.

(5) Myriad public and private patient safety initiatives have begun. The Quality Interagency Coordination Taskforce has recommended steps to improve patient safety that may be taken by each Federal agency involved in health care and activities relating to these steps are ongoing.

(6) The research on patient safety unequivocally calls for a learning environment, rather than a punitive environment, in order to improve patient safety.

(7) Voluntary data gathering systems are more supportive than mandatory systems in creating the learning environment referred to in paragraph (6) as stated in the Institute of Medicine's report.

(8) Promising patient safety reporting systems have been established throughout the United States and the best ways to structure and use these systems are currently being determined, largely through projects funded by the Agency for Healthcare Research and Quality.

(9) Many organizations currently collecting patient safety data have expressed a need for legal protections that will allow them to review protected information and collaborate in the development and implementation of patient safety improvement strategies. Currently, the State peer review protections are inadequate to allow the sharing of information to promote patient safety.

(b) PURPOSES.—It is the purpose of this subtitle to—

(1) encourage a culture of safety and quality in the United States health care system by providing for legal protection of information reported voluntarily for the purposes of quality improvement and patient safety; and

(2) ensure accountability by raising standards and expectations for continuous quality improvements in patient safety.

SEC. 143. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting '', in accordance with part C,'' after ''The Director shall'';

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in 934(d) (as so redesignated), by striking the second sentence and inserting the following: ''Penalties provided for under this section shall be imposed and collected by the Secretary using the administrative and procedural processes used to impose and collect civil money penalties under section 1128A of the Social Security Act (other than subsections (a) and (b), the second sentence of subsection (f), and subsections (i), (m), and (n)), unless the Secretary determines that a modification of procedures would be more suitable or reasonable to carry out this subsection and provides for such modification by regulation.'';

(5) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(6) by inserting after part B the following:

''PART C—PATIENT SAFETY IMPROVEMENT

''SEC. 921. DEFINITIONS.

''In this part:

''(1) NON-IDENTIFIABLE INFORMATION.—

''(A) IN GENERAL.—The term 'non-identifiable information' means, with respect to information, that the information is presented in a form and manner that prevents the identification of a provider, a patient, or a reporter of patient safety data.

''(B) IDENTIFIABILITY OF PATIENT.—For purposes of subparagraph (A), the term 'presented in a form and manner that prevents the identification of a patient' means, with respect to information that has been subject to rules promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), that the information has been de-identified so that it is no longer individually identifiable health information as defined in such rules.

''(2) PATIENT SAFETY DATA.—

''(A) IN GENERAL.—The term 'patient safety data' means—

''(i) any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements that are—

''(I) collected or developed by a provider for reporting to a patient safety organization, provided that they are reported to the patient safety organization within 60 days;

''(II) requested by a patient safety organization (including the contents of such request), if they are reported to the patient safety organization within 60 days;

''(III) reported to a provider by a patient safety organization; or

''(IV) collected by a patient safety organization from another patient safety organization, or developed by a patient safety organization;

that could result in improved patient safety, health care quality, or health care outcomes; or

''(ii) any deliberative work or process with respect to any patient safety data described in clause (i).

''(B) LIMITATION.—

''(i) COLLECTION.—If the original material from which any data, reports, records, memoranda, analyses (such as root case analyses), or written or oral statements referred to in subclause (I) or (IV) of subparagraph (A)(i) are collected and is not patient safety data, the act of such collection shall not make such original material patient safety data for purposes of this part.

''(ii) SEPARATE DATA.—The term 'patient safety data' shall not include information (including a patient's medical record, billing and discharge information or any other patient or provider record) that is collected or developed separately from and that exists separately from patient safety data. Such separate information or a copy thereof submitted to a patient safety organization shall not itself be considered as patient safety data. Nothing in this part, except for section 922(f)(1), shall be construed to limit—

''(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

''(II) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

''(III) a provider's recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

''(3) PATIENT SAFETY ORGANIZATION.—The term 'patient safety organization' means a private or public entity or component thereof that is currently listed by the Secretary pursuant to section 924(c).

''(4) PATIENT SAFETY ORGANIZATION ACTIVITIES.—The term 'patient safety organization activities' means the following activities, which are deemed to be necessary for the proper management and administration of a patient safety organization:

''(A) The conduct, as its primary activity, of efforts to improve patient safety and the quality of health care delivery.

''(B) The collection and analysis of patient safety data that are submitted by more than one provider.

''(C) The development and dissemination of information to providers with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

''(D) The utilization of patient safety data for the purposes of encouraging a culture of safety and of providing direct feedback and assistance to providers to effectively minimize patient risk.

''(E) The maintenance of procedures to preserve confidentiality with respect to patient safety data.

''(F) The provision of appropriate security measures with respect to patient safety data.

''(G) The utilization of qualified staff.

''(5) PERSON.—The term 'person' includes Federal, State, and local government agencies.

''(6) PROVIDER.—The term 'provider' means—

''(A) a person licensed or otherwise authorized under State law to provide health care services, including—

''(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

''(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

''(B) any other person specified in regulations promulgated by the Secretary.

''SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

''(a) PRIVILEGE.—Notwithstanding any other provision of Federal, State, or local law, patient safety data shall be privileged and, subject to the provisions of subsection (c)(1), shall not be—

''(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena;

''(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding;

''(3) disclosed pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

''(4) admitted as evidence or otherwise disclosed in any Federal, State, or local civil, criminal, or administrative proceeding; or

''(5) utilized in a disciplinary proceeding against a provider.

''(b) CONFIDENTIALITY.—Notwithstanding any other provision of Federal, State, or local law, and subject to the provisions of subsections (c) and (d), patient safety data shall be confidential and shall not be disclosed.

''(c) EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

''(1) Disclosure by a provider or patient safety organization of relevant patient safety data for use in a criminal proceeding only after a court makes an in camera determination that such patient safety data contains evidence of a wanton and criminal act to directly harm the patient.

''(2) Voluntary disclosure of non-identifiable patient safety data by a provider or a patient safety organization.

''(d) PROTECTED DISCLOSURE AND USE OF INFORMATION.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

''(1) Disclosure of patient safety data by a person that is a provider, a patient safety organization, or a contractor of a provider or patient safety organization, to another such person, to carry out patient safety organization activities.

''(2) Disclosure of patient safety data by a provider or patient safety organization to grantees or contractors carrying out patient safety research, evaluation, or demonstration projects authorized by the Director.

''(3) Disclosure of patient safety data by a provider to an accrediting body that accredits that provider.

''(4) Voluntary disclosure of patient safety data by a patient safety organization to the Secretary for public health surveillance if the consent of each provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

''(5) Voluntary disclosure of patient safety data by a patient safety organization to State of local government agencies for public health surveillance if the consent of each provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

''(e) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), patient safety data that is used or disclosed shall continue to be privileged and confidential as provided for in subsections (a) and (b), and the provisions of such subsections shall apply to such data in the possession or control of—

''(A) a provider or patient safety organization that possessed such data before the use or disclosure; or

''(B) a person to whom such data was disclosed.

''(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3)—

''(A) if patient safety data is used or disclosed as provided for in subsection (c)(1), and such use or disclosure is in open court, the confidentiality protections provided for in subsection (b) shall no longer apply to such data; and

''(B) if patient safety data is used or disclosed as provided for in subsection (c)(2), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such data.

''(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to data other than the specific data used or disclosed as provided for in subsection (c).

''(f) LIMITATION ON ACTIONS.—

''(1) PATIENT SAFETY ORGANIZATIONS.—Except to enforce disclosures pursuant to subsection (c)(1), no action may be brought or process served against a patient safety organization to compel disclosure of information collected or developed under this part whether or not such information is patient safety data unless such information is specifically identified, is not patient safety data, and cannot otherwise be obtained.

''(2) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety data in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established in accordance with this part.

''(g) REPORTER PROTECTION.—

''(1) IN GENERAL.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information—

''(A) to the provider with the intention of having the information reported to a patient safety organization; or

''(B) directly to a patient safety organization.

''(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an 'adverse employment action' includes—

''(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

''(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

''(h) ENFORCEMENT.—

''(1) PROHIBITION.—Except as provided in subsections (c) and (d) and as otherwise provided for in this section, it shall be unlawful for any person to negligently or intentionally disclose any patient safety data, and any such person shall, upon adjudication, be assessed in accordance with section 934(d).

''(2) RELATION TO HIPAA.—The penalty provided for under paragraph (1) shall not apply if the defendant would otherwise be subject to a penalty under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) or under section 1176 of the Social Security Act (42 U.S.C. 1320d–5) for the same disclosure.

''(3) EQUITABLE RELIEF.—

''(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (g) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

''(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action as described by this paragraph, and that consent has remained in effect.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

''(1) limit other privileges that are available under Federal, State, or local laws that provide greater confidentiality protections or privileges than the privilege and confidentiality protections provided for in this section;

''(2) limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

''(3) alter or affect the implementation of any provision of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), section 1176 of the Social Security Act (42 U.S.C. 1320d–5), or any regulation promulgated under such sections;

''(4) limit the authority of any provider, patient safety organization, or other person to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with subsection (c) or (d); and

''(5) prohibit a provider from reporting a crime to law enforcement authorities, regardless of whether knowledge of the existence of, or the description of, the crime is based on patient safety data, so long as the provider does not disclose patient safety data in making such report.

''SEC. 923. PATIENT SAFETY NETWORK OF DATABASES.

''(a) IN GENERAL.—The Secretary shall maintain a patient safety network of databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other persons. The network of databases shall have the capacity to accept, aggregate, and analyze nonidentifiable patient safety data voluntarily reported by patient safety organizations, providers, or other persons.

''(b) NETWORK OF DATABASE STANDARDS.—The Secretary may determine common formats for the reporting to the patient safety network of databases maintained under subsection (a) of nonidentifiable patient safety data, including necessary data elements, common and consistent definitions, and a standardized computer interface for the processing of such data. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of Part C of title XI of the Social Security Act.

''SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

''(a) CERTIFICATION.—

''(1) INITIAL CERTIFICATION.—Except as provided in paragraph (2), an entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity intends to perform the patient safety organization activities.

''(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—An entity that seeks to be a patient safety organization may—

''(A) submit an initial certification that it intends to perform patient safety organization activities other than the activities described in subparagraph (B) of section 921(4); and

''(B) within 2 years of submitting the initial certification under subparagraph (A), submit a supplemental certification that it performs the patient safety organization activities described in subparagraphs (A) through (F) of section 921(4).

''(3) EXPIRATION AND RENEWAL.—

''(A) EXPIRATION.—An initial certification under paragraph (1) or (2)(A) shall expire on the date that is 3 years after it is submitted.

''(B) RENEWAL.—

''(i) IN GENERAL.—An entity that seeks to remain a patient safety organization after the expiration of an initial certification under paragraph (1) or (2)(A) shall, within the 3-year period described in subparagraph (A), submit a renewal certification to the Secretary that the entity performs the patient safety organization activities described in section 921(4).

''(ii) TERM OF RENEWAL.—A renewal certification under clause (i) shall expire on the date that is 3 years after the date on which it is submitted, and may be renewed in the same manner as an initial certification.

''(b) ACCEPTANCE OF CERTIFICATION.—Upon the submission by an organization of an initial certification pursuant to subsection (a)(1) or (a)(2)(A), a supplemental certification pursuant to subsection (a)(2)(B), or a renewal certification pursuant to subsection (a)(3)(B), the Secretary shall review such certification and—

''(1) if such certification meets the requirements of subsection (a)(1), (a)(2)(A), (a)(2)(B), or (a)(3)(B), as applicable, the Secretary shall notify the organization that such certification is accepted; or

''(2) if such certification does not meet such requirements, as applicable, the Secretary shall notify the organization that such certification is not accepted and the reasons therefor.

''(c) LISTING.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall compile and maintain a current listing of patient safety organizations with respect to which the Secretary has accepted a certification pursuant to subsection (b).

''(2) REMOVAL FROM LISTING.—The Secretary shall remove from the listing under paragraph (1)—

''(A) an entity with respect to which the Secretary has accepted an initial certification pursuant to subsection (a)(2)(A) and which does not submit a supplemental certification pursuant to subsection (a)(2)(B) that is accepted by the Secretary;

''(B) an entity whose certification expires and which does not submit a renewal application that is accepted by the Secretary; and

''(C) an entity with respect to which the Secretary revokes the Secretary's acceptance of the entity's certification, pursuant to subsection (d).

''(d) REVOCATION OF ACCEPTANCE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines (through a review of patient safety organization activities) that a patient safety organization does not perform one of the patient safety organization activities described in subparagraph (A) through (F) of section 921(4), the Secretary may, after notice and an opportunity for a hearing, revoke the Secretary's acceptance of the certification of such organization.

''(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—A revocation under paragraph (1) may not be based on a determination that the organization does not perform the activity described in section 921(4)(B) if—

''(A) the listing of the organization is based on its submittal of an initial certification under subsection (a)(2)(A);

''(B) the organization has not submitted a supplemental certification under subsection (a)(2)(B); and

''(C) the 2-year period described in subsection (a)(2)(B) has not expired.

''(e) NOTIFICATION OF REVOCATION OR REMOVAL FROM LISTING.—

''(1) SUPPLYING CONFIRMATION OF NOTIFICATION TO PROVIDERS.—Within 15 days of a revocation under subsection (d)(1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety data is

collected or analyzed by the organization of such revocation.

''(2) PUBLICATION.—Upon the revocation of an acceptance of an organization's certification under subsection (d)(1), or upon the removal of an organization from the listing under subsection (c)(2), the Secretary shall publish notice of the revocation or removal in the Federal Register.

''(f) STATUS OF DATA AFTER REMOVAL FROM LISTING.—

''(1) NEW DATA.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an organization within 30 days after the organization is removed from the listing under subsection (c)(2) shall have the same status as data submitted while the organization was still listed.

''(2) PROTECTION TO CONTINUE TO APPLY.—If the privilege and confidentiality protections described in section 922 applied to data while an organization was listed, or during the 30-day period described in paragraph (1), such protections shall continue to apply to such data after the organization is removed from the listing under subsection (c)(2).

''(g) DISPOSITION OF DATA.—If the Secretary removes an organization from the listing as provided for in subsection (c)(2), with respect to the patient safety data that the organization received from providers, the organization shall—

''(1) with the approval of the provider and another patient safety organization, transfer such data to such other organization;

''(2) return such data to the person that submitted the data; or

''(3) if returning such data to such person is not practicable, destroy such data.

''SEC. 925. TECHNICAL ASSISTANCE.

''The Secretary, acting through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

''SEC. 926. PROMOTING THE INTEROPERABILITY OF HEALTH CARE INFORMATION TECHNOLOGY SYSTEMS.

''(a) DEVELOPMENT.—Not later than 36 months after the date of enactment of the Patient Safety and Quality Improvement Act of 2005, the Secretary shall develop or adopt voluntary standards that promote the electronic exchange of health care information.

''(b) UPDATES.—The Secretary shall provide for the ongoing review and periodic updating of the standards developed under subsection (a).

''(c) DISSEMINATION.—The Secretary shall provide for the dissemination of the standards developed and updated under this section.

''SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary to carry out this part.''.

SEC. 144. STUDIES AND REPORTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract (based upon a competitive contracting process) with an appropriate research organization for the conduct of a study to assess the impact of medical technologies and therapies on patient safety, patient benefit, health care quality, and the costs of care as well as productivity growth. Such study shall examine—

(1) the extent to which factors, such as the use of labor and technological advances, have contributed to increases in the share of the gross domestic product that is devoted to health care and the impact of medical technologies and therapies on such increases;

(2) the extent to which early and appropriate introduction and integration of innovative medical technologies and therapies may affect the overall productivity and quality of the health care delivery systems of the United States; and

(3) the relationship of such medical technologies and therapies to patient safety, patient benefit, health care quality, and cost of care.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under subsection (a).

Subtitle D—Fraud and Abuse

SEC. 151. NATIONAL EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PILOT PROGRAM.

(a) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(1) in subsection (b), by adding at the end the following:

''(6) The Medicare-Medicaid data match program in accordance with subsection (g).''; and

(2) by adding at the end the following:

''(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.—

''(1) EXPANSION OF PROGRAM.—

''(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid data match program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and the applicable number of State Medicaid programs under title XIX for the purpose of—

''(i) identifying vulnerabilities in both such programs;

''(ii) assisting States, as appropriate, to take action to protect the Federal share of expenditures under the Medicaid program; and

''(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

''(B) APPLICABLE NUMBER.—For purposes of subparagraph (A), the term 'applicable number' means—

''(i) in the case of fiscal year 2006, 10 State Medicaid programs;

''(ii) in the case of fiscal year 2007, 12 State Medicaid programs; and

''(iii) in the case of fiscal year 2008, 15 State Medicaid programs.

''(2) LIMITED WAIVER AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).''.

(b) FUNDING.—Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(2) by adding at the end the following:

''(C) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—Of the amount appropriated under subparagraph (A) for a fiscal year, the following amounts shall be used to carry out section 1893(b)(6) for that year:

''(i) $10,000,000 of the amount appropriated for fiscal year 2006.

''(ii) $12,200,000 of the amount appropriated for fiscal year 2007.

''(iii) $15,800,000 of the amount appropriated for fiscal year 2008.''.

Subtitle E—Miscellaneous Provisions

SEC. 161. SENSE OF THE SENATE ON ESTABLISHING A MANDATED BENEFITS COMMISSION.

It is the Sense of the Senate that—

(1) there should be established an independent Federal entity to study and provide advice to Congress on existing and proposed federally mandated health insurance benefits offered by employer-sponsored health plans and insurance issuers; and

(2) advice provided under paragraph (1) should be evidence- and actuarially-based, and take into consideration the population costs and benefits, including the health, financial, and social impact on affected populations, safety and medical efficacy, the impact on costs and access to insurance generally, and to different types of insurance products, the impact on labor costs and jobs, and any other relevant factors.

SEC. 162. ENFORCEMENT OF REIMBURSEMENT PROVISIONS BY FIDUCIARIES.

Section 502(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(3)) is amended by inserting before the semicolon the following: ''(which may include the recovery of amounts on behalf of the plan by a fiduciary enforcing the terms of the plan that provide a right of recovery by reimbursement or subrogation with respect to benefits provided to a participant or beneficiary)''.

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Credit

SEC. 201. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED INDIVIDUALS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the lesser of—

''(A) 90 percent of the sum of the amounts paid by the taxpayer for qualified health insurance for each individual referred to in subsection (a) for coverage months of the individual during the taxable year, or

''(B) $3,000.

''(2) MONTHLY LIMITATION.—

''(A) IN GENERAL.—For purposes of paragraph (1), amounts paid by the taxpayer for qualified health insurance for an individual for any coverage month of such individual during the taxable year shall not be taken into account to the extent such amounts exceed the amount equal to 1/12 of—

''(i) $1,111 if such individual is the taxpayer,

''(ii) $1,111 if—

''(I) such individual is the spouse of the taxpayer,

''(II) the taxpayer and such spouse are married as of the first day of such month, and

''(III) the taxpayer files a joint return for the taxable year,

''(iii) $1,111 if such individual has attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year, and

''(iv) one-half of the amount described in clause (i) if such individual has not attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year.

''(B) LIMITATION TO 2 YOUNG DEPENDENTS.—If there are more than 2 individuals described in subparagraph (A)(iv) with respect to the taxpayer for any coverage month, the aggregate amounts paid by the taxpayer for qualified health insurance for such individuals which may be taken into account under paragraph (1) shall not exceed 1/12 of the dollar amount in effect under subparagraph (A)(i) for the coverage month.

''(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of a taxpayer—

''(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

''(ii) who does not live apart from such taxpayer's spouse at all times during the taxable year,

any dollar limitation imposed under this paragraph on amounts paid for qualified health insurance for individuals described in subparagraph (A)(iv) shall be divided equally between the taxpayer and the taxpayer's spouse unless they agree on a different division.

''(3) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR ONE-PERSON COVERAGE.—

''(A) PHASEOUT FOR UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—In the case of an individual (other than a surviving spouse, the head of a household, or a married individual) with one-person coverage, if such individual has modified adjusted gross income—

''(i) in excess of $15,000 for a taxable year but not in excess of $20,000, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 40 percentage points as—

''(I) the excess of modified adjusted gross income in excess of $15,000, bears to

''(II) $5,000, or

''(ii) in excess of $20,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the sum of 40 percentage points plus the number of percentage points which bears the same ratio to 50 percentage points as—

''(I) the excess of modified adjusted gross income in excess of $20,000, bears to

''(II) $10,000.

''(B) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer (other than an individual described in subparagraph (A) or (C)) with one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

''(i) the excess of modified adjusted gross income in excess of $25,000, bears to

''(ii) $15,000.

''(C) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $12,500 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

''(i) the excess of modified adjusted gross income in excess of $12,500, bears to

''(ii) $7,500.

''(4) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF MORE THAN ONE PERSON.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a taxpayer with coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

''(i) the excess of modified adjusted gross income in excess of $25,000, bears to

''(ii) $35,000.

''(B) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $12,500 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

''(i) the excess of modified adjusted gross income in excess of $12,500, bears to

''(ii) $17,500.

''(5) ROUNDING.—Any percentage resulting from a reduction under paragraphs (3) and (4) shall be rounded to the nearest one-tenth of a percent.

''(6) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after application of sections 86, 135, 137, 219, 221, and 469.

''(c) COVERAGE MONTH.—For purposes of this section—

''(1) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month if—

''(A) as of the first day of such month such individual is covered by qualified health insurance, and

''(B) the premium for coverage under such insurance for such month is paid by the taxpayer.

''(2) GROUP HEALTH PLAN COVERAGE.—

''(A) IN GENERAL.—The term 'coverage month' shall not include any month for which if, as of the first day of the month, the individual participates in any group health plan (within the meaning of section 5000 without regard to section 5000(d)).

''(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—Subparagraph (A) shall not apply to an individual if the individual's only coverage for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

''(3) EMPLOYER-PROVIDED COVERAGE.—The term 'coverage month' shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 (other than coverage described in clause (i) or (ii) of section 223(c)(1)(B)).

''(4) MEDICARE, MEDICAID, AND SCHIP.—The term 'coverage month' shall not include any month with respect to an individual if, as of the first day of such month, such individual—

''(A) is entitled to any benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

''(5) CERTAIN OTHER COVERAGE.—The term 'coverage month' shall not include any month during a taxable year with respect to an individual if, as of the first day of such month at any time during such month, such individual is enrolled in a program under—

''(A) chapter 89 of title 5, United States Code, or

''(B) chapter 55 of title 10, United States Code.

''(6) PRISONERS.—The term 'coverage month' shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

''(7) INSUFFICIENT PRESENCE IN UNITED STATES.—The term 'coverage month' shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

''(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance' means health insurance coverage (as defined in section 9832(b)(1)) which—

''(A) is coverage described in paragraph (2), and

''(B) meets the requirements of paragraph (3).

''(2) ELIGIBLE COVERAGE.—Coverage described in this paragraph is the following:

''(A) Coverage under individual health insurance.

''(B) Coverage through a private sector health care coverage purchasing pool.

''(C) Coverage through a State care coverage purchasing pool.

''(D) Coverage under a State high-risk pool described in subparagraph (C) of section 35(e)(1).

''(E) Coverage after December 31, 2006, under an eligible State buy in program.

''(3) REQUIREMENTS.—The requirements of this paragraph are as follows:

''(A) COST LIMITS.—The coverage meets the requirements of section 223(c)(2)(A)(ii).

''(B) MAXIMUM BENEFITS.—Under the coverage, the annual and lifetime maximum benefits are not less than $700,000.

''(C) BROAD COVERAGE.—The coverage includes inpatient and outpatient care, emergency benefits, and physician care.

''(D) GUARANTEED RENEWABILITY.—Such coverage is guaranteed renewable by the provider.

''(4) ELIGIBLE STATE BUY IN PROGRAM.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'eligible State buy in program' means a State program under which an individual who—

''(i) is not eligible for assistance under the State medicaid program under title XIX of the Social Security Act,

''(ii) is not eligible for assistance under the State children's health insurance program under title XXI of such Act, or

''(iii) is not a State employee,

is able to buy health insurance coverage through a purchasing arrangement entered into between the State and a private sector health care purchasing group or health plan.

''(B) REQUIREMENTS.—Subparagraph (A) shall only apply to a State program if—

''(i) the program uses private sector health care purchasing groups or health plans, and

''(ii) the State maintains separate risk pools for participants under the State buy in program and other participants.

''(C) SUBSIDIES.—

''(i) IN GENERAL.—A State program shall not fail to be treated as an eligible State buy in program merely because the State subsidizes the costs of an individual in buying health insurance coverage under the program.

''(ii) EXCEPTION.—Clause (i) shall not apply if the State subsidy under the program for any adult for any consecutive 12-month period exceeds the applicable dollar amount.

''(iii) APPLICABLE DOLLAR AMOUNT.—

''(I) IN GENERAL.—For purposes of clause (ii), the applicable dollar amount is $2,000.

''(II) REDUCTION.—In the case of a family with annual income in excess of 133 percent of the applicable poverty line (as determined in accordance with criteria established by the Director of the Office of Management and Budget) but not in excess of 200 percent of such line, the dollar amount under clause (i) shall be ratably reduced (but not below zero) for each dollar of such excess. In the case of a family with annual income in excess of 200 percent of such line, the applicable dollar amount shall be zero.

''(e) ARRANGEMENTS UNDER WHICH INSURERS CONTRIBUTE TO HSA.—

''(1) IN GENERAL.—For purposes of this section, health insurance shall not be treated as qualified health insurance if the insurer makes contributions to a health savings account of the taxpayer unless such insurance is provided under an arrangement described in paragraph (2).

''(2) ARRANGEMENTS DESCRIBED.—

''(A) AMOUNTS PAID FOR COVERAGE EXCEED MONTHLY LIMITATION.—In the case of amounts paid under an arrangement for health insurance for a coverage month in excess of the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if under the arrangement—

''(i) the aggregate amount contributed by the insurer to any health savings account of the taxpayer does not exceed 90 percent of the excess of—

''(I) the amount paid by the taxpayer for qualified health insurance under such arrangement for such month, over

''(II) the amount in effect under subsection (b)(2)(A) for such month, and

''(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer, reduced by the amount of the excess under clause (i), does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

''(B) AMOUNTS PAID FOR COVERAGE LESS THAN MONTHLY LIMITATION.—In the case of an arrangement under which the amount paid for qualified health insurance for a coverage month does not exceed the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if—

''(i) under the arrangement the value of the insured benefits (excluding overhead) exceeds 65 percent of the amount paid for qualified health insurance for such month, and

''(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

''(3) QUALIFIED HEALTH SAVINGS ACCOUNT.—

''(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

''(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

''(ii) which may not include any amount other than contributions described in this subsection and earnings on such contributions, and

''(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

''(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

''(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

''(f) DEPENDENTS.—For purposes of this section—

''(1) DEPENDENT DEFINED.—The term 'dependent' has the meaning given such term by section 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof).

''(2) SPECIAL RULE FOR DEPENDENT CHILD OF DIVORCED PARENTS.—An individual who is a child to whom section 152(e) applies shall be treated as a dependent of the custodial parent for a coverage month unless the custodial and noncustodial parent provide otherwise.

''(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151(c) is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(g) INFLATION ADJUSTMENTS.—

''(1) CREDIT AND HEALTH INSURANCE AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in subsections (b)(1)(B), (b)(2)(A), (d)(3)(B), and (d)(4)(C)(iii)(I) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting '2005' for '1996' in subclause (II) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

''(2) INCOME PHASEOUT AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in paragraph (3) and (4) of subsection (b) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(h) ARCHER MSA CONTRIBUTIONS; HSA CONTRIBUTIONS.—If a deduction would be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual or under section 223 to the taxpayer for a payment for the taxable year to the Health Savings Account of such individual, subsection (a) shall not apply to the taxpayer for any month during such taxable year for which the taxpayer, spouse, or dependent is an eligible individual for purposes of either such section.

''(i) OTHER RULES.—For purposes of this section—

''(1) COORDINATION WITH MEDICAL EXPENSE AND PREMIUM DEDUCTIONS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 224 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

''(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—No credit shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for the taxable year.

''(3) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 35(g)(1) shall apply to any credit to which this section applies.

''(4) COORDINATION WITH SECTION 35.—If a taxpayer is eligible for the credit allowed under this section and section 35 for any taxable year, the taxpayer shall elect which credit is to be allowed.

''(j) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following:

''SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

''(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

''(C) the aggregate amount of payments described in subsection (a), and

''(D) such other information as the Secretary may reasonably prescribe.

''(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(d)).

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

''(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

''(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the

calendar year for which the return under subsection (a) is required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix), respectively, and by inserting after clause (xii) the following:

''(xiii) section 6050U (relating to returns relating to payments for qualified health insurance),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (AA), by striking the period at the end of the subparagraph (BB) and inserting '', or'', and by adding at the end the following:

''(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following:

''Sec. 6050U. Returns relating to payments for qualified health insurance.''.

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

''Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 36 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking ''35'' and inserting ''36'' and by inserting after the item relating to section 35 the following:

''Sec. 36. Health insurance costs for uninsured individuals.''.

(4) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

''Sec. 7276. Penalties for offenses relating to health insurance tax credit.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(2) PENALTIES.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

SEC. 202. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following:

''SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

''Not later than July 1, 2007, the Secretary shall establish a program for making payments to providers of qualified health insurance (as defined in section 36(d)) on behalf of individuals eligible for the credit under section 36. Such payments shall be made on the basis of modified adjusted gross income of eligible individuals for the preceding taxable year.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 7529. Advance payment of health insurance credit for purchasers of qualified health insurance.''.

Subtitle B—High Deductible Health Plans and Health Savings Accounts

SEC. 211. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

''(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a deduction for the taxable year the aggregate amount paid by or on behalf of such individual as premiums under a high deductible health plan with respect to months during such year for which such individual is an eligible individual with respect to such health plan.

''(b) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given such term by section 223(c)(1).

''(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

''(c) SPECIAL RULES.—

''(1) DEDUCTION ALLOWABLE FOR ONLY 1 PLAN.—For purposes of this section, in the case of an individual covered by more than 1 high deductible health plan for any month, the individual may only take into account amounts paid for 1 of such plans for such month.

''(2) GROUP HEALTH PLAN COVERAGE.—

''(A) IN GENERAL.—No deduction shall be allowed to an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if, as of the first day of that month, that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)).

''(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—Subparagraph (A) shall not apply to an individual if the individual's only coverage under a group health plan for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

''(3) MEDICARE ELIGIBLE INDIVIDUALS.—No deduction shall be allowed under subsection (a) with respect to any individual for any month if the individual is entitled to benefits under title XVIII of the Social Security Act for the month.

''(4) HEALTH SAVINGS ACCOUNT REQUIRED.—A deduction shall not be allowed under subsection (a) for a taxable year with respect to an individual unless the individual is an account beneficiary of a health savings account during a portion of the taxable year.

''(5) MEDICAL AND HEALTH SAVINGS ACCOUNTS.—Subsection (a) shall not apply with respect to any amount which is paid or distributed out of an Archer MSA or a health savings account which is not included in gross income under section 220(f) or 223(f), as the case may be.

''(6) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

''(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting before the last sentence at the end the following new paragraph:

''(21) PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The deduction allowed by section 224.''.

(c) COORDINATION WITH HEALTH INSURANCE COSTS CREDIT.—Section 35(g)(2) of the Internal Revenue Code of 1986 is amended by striking ''or 213'' and inserting '',213, or 224''.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 224 as section 225 and by inserting before such item the following new item:

''Sec. 224. Premiums for high deductible health plans.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 212. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS OF SMALL BUSINESS EMPLOYEES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after section 36 the following new section:

''SEC. 36A. SMALL EMPLOYER CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

''(a) GENERAL RULE.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the lesser of—

''(1) the amount contributed by such employer to any qualified health savings account of any employee who is an eligible individual (as defined in section 223(c)(1)) during the taxable year, or

''(2) an amount equal to the product of—

''(A) $200 ($500 if coverage for all months described in subparagraph (B)(i) is family coverage), and

''(B) a fraction—

''(i) the numerator of which is the number of months that the employee was covered under a high deductible health plan maintained by the employer, and

''(ii) the denominator of which is the number of months in the taxable year.

''(b) ELIGIBLE EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible employer' means, with respect to any taxable year, an employer which—

''(A) is a small employer, and

''(B) maintains a high deductible health plan under which all employees of the employer reasonably expected to receive at least $5,000 of compensation during the taxable year are eligible to participate.

An employer may exclude from consideration under subparagraph (B) employees who are covered by an agreement described in section 410(b)(3)(A) if there is evidence that health benefits were the subject of good faith bargaining.

''(2) EXCEPTION FOR GOVERNMENTAL AND TAX-EXEMPT EMPLOYERS.—The term 'eligible employer' shall not include the Federal Government or any employer described in section 457(e)(1).

''(3) SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) SPECIAL RULE.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(c) DEFINITIONS.—For purposes of this section—

''(1) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

''(2) QUALIFIED HEALTH SAVINGS ACCOUNT.—

''(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

''(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

''(ii) which may not include any amount other than contributions described in subsection (a) and earnings on such contributions, and

''(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

''(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

''(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of contributions to any health savings accounts for the taxable year which is equal to the credit determined under subsection (a).

''(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36A of such Code''.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after the item relating to section 36 the following new item:

''Sec. 36A. Small employer contributions to health savings accounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle C—Improvement of the Health Coverage Tax Credit

SEC. 221. CHANGE IN STATE-BASED COVERAGE RULES RELATED TO PREEXISTING CONDITIONS.

(a) IN GENERAL.—Section 35(e)(2) of the Internal Revenue Code of 1986 (relating to requirements for State-based coverage) is amended by adding at the end the following:

''(C) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.—The term 'qualified health insurance' does not include any coverage described in subparagraphs (C) through (H) of paragraph (1) that imposes a pre-existing condition exclusion with respect to any individual unless—

''(i) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage,

''(ii) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage,

''(iii) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c)) applicable to the individual as of the enrollment date, and

''(iv) such exclusion is not an exclusion described in section 9801(d).''.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—Subparagraph (A) of section 35(e)(2) of such Code is amended—

(A) by striking clause (ii); and

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) WORKFORCE INVESTMENT ACT OF 1998 AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(A) in clause (i)—

(i) by striking subclause (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively; and

(B) by adding at the end the following:

''(iii) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.—The term 'qualified health insurance' does not include any coverage described in clauses (iii) through (ix) of subparagraph (A) that imposes a pre-existing condition exclusion with respect to any individual unless—

''(I) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage;

''(II) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage;

''(III) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) applicable to the individual as of the enrollment date; and

''(IV) such exclusion is not an exclusion described in section 9801(d) of such Code.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 222. ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) IN GENERAL.—Subsection (b) of section 35 of such Code (defining eligible coverage month) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer, provided the spouse has attained age 55 and meets the requirements of clauses (ii), (iii), and (iv) of paragraph (1)(A).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 2005.

SEC. 223. ELIGIBLE PBGC PENSION RECIPIENT.

(a) IN GENERAL.—Subparagraph (B) of section 35(c)(4) of such Code (relating to eligible PBGC pension recipients) is amended by inserting before the period the following '', or, after August 6, 2002, received from such Corporation a one-time single-sum pension payment in lieu of an annuity''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 201 of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 224. APPLICATION OF OPTION TO OFFER STATE-BASED COVERAGE TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.

(a) IN GENERAL.—Section 35(e) of such Code (relating to requirements for qualified health insurance) is amended by adding at the end the following:

''(4) APPLICATION TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.—For purposes of this section, Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands shall be considered States.''.

(b) CONFORMING AMENDMENT.—Section 173(f)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)) is amended by adding at the end the following:

''(D) APPLICATION TO NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.—For purposes of subsection (a)(4)(A) and this subsection, the term 'State' shall include the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 225. CLARIFICATION OF DISCLOSURE RULES.

(a) IN GENERAL.—Subsection (k) of section 6103 of such Code (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following:

''(10) DISCLOSURE OF CERTAIN RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The Secretary may disclose to providers of health insurance, administrators of health plans, or contractors of such

providers or administrators, for any certified individual (as defined in section 7527(c)) the taxpayer identity and health insurance member and group numbers of the certified individual (and any qualifying family member as defined in section 35(d), if applicable) and the amount and period of the payment, to the extent the Secretary deems necessary for the administration of the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6103 of such Code (relating to confidentiality and disclosure of returns and return information) is amended—

(A) in subsection (a)(3), by inserting ''(k)(10),'' after ''(e)(1)(D)(iii),'';

(B) in subsection (l), by striking paragraph (18); and

(C) in subsection (p)—

(i) in paragraph (3)(A)—

(I) by striking ''or (9)'' and inserting ''(9), or (10)''; and

(II) by striking ''(17), or (18)'' and inserting ''or (17)''; and

(ii) in paragraph (4), by striking ''(18)'' after ''(l)(16)'' each place it appears.

(2) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by inserting ''(k)(10)'' before ''(l)(6)''.

(3) Section 7213A(a)(1)(B) of such Code (relating to unauthorized inspection of returns or return information) is amended by striking ''subsection (l)(18) or (n) of section 6103'' and inserting ''section 6103(n)''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 226. CLARIFICATION THAT STATE-BASED COBRA CONTINUATION COVERAGE IS SUBJECT TO SAME RULES AS FEDERAL COBRA.

(a) IN GENERAL.—Section 35(e)(2) of such Code (relating to state-based coverage requirements) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking ''(B)'' and inserting ''(C)''; and

(2) in subparagraph(B)(i), by striking ''(B)'' and inserting ''(C)''.

(b) CONFORMING AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(1) in clause (i), in the matter preceding subclause (I), by striking ''(ii)'' and inserting ''(iii)''; and

(2) in clause (ii)(I), by striking ''(ii)'' and inserting ''(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of sections 201 and 203, respectively, of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 227. APPLICATION OF RULES FOR OTHER SPECIFIED COVERAGE TO ELIGIBLE ALTERNATIVE TAA RECIPIENTS CONSISTENT WITH RULES FOR OTHER ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 35(f)(1) of such Code (relating to subsidized coverage) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—Section 173(f)(7)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(7)(A)) is amended by striking clause (ii) and redesignating clause (iii) as clause (ii).

Subtitle D—Long-Term Care Insurance

SEC. 231. SENSE OF THE SENATE CONCERNING LONG-TERM CARE.

It is the sense of the Senate that Congress should take steps to make long-term care more affordable by providing tax incentives for the purchase of long-term care insurance, support for family caregivers, and making necessary public program reforms.

Subtitle E—Other Provisions

SEC. 241. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

''(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

''(B) to the extent permitted by section 106(c), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

''(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

''(B) FLEXIBLE SPENDING ARRANGEMENT.—A flexible spending arrangement is a benefit program which provides employees with coverage under which—

''(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

''(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

''(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

''(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

''(B) the actual amount of reimbursement for such year under such arrangement.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

SEC. 242. MICROENTREPRENEURS.

Section 404(8) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by adding at the end the following:

''(F) HIGH DEDUCTIBLE HEALTH INSURANCE.—

''(i) IN GENERAL.—The eligible individual's contribution (as an employer or employee) for coverage under a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986).

''(ii) DEFINITION OF EMPLOYEE.—For purposes of clause (i), the term 'employee' includes an individual described in section 401(c)(1) of the Internal Revenue Code of 1986.''.

SEC. 243. STUDY ON ACCESS TO AFFORDABLE HEALTH INSURANCE FOR FULL-TIME COLLEGE AND UNIVERSITY STUDENTS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, because a considerable number of the United States' uninsured population are young adults who are enrolled full-time at an institution of higher education, Congress should determine whether health care coverage proposals targeting this population would be effective.

(b) STUDY REQUIRED.—The Government Accountability Office shall provide for the conduct of a study to evaluate existing and potential sources of affordable health insurance coverage for graduate and undergraduate students enrolled at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)).

(c) REQUIRED ELEMENTS OF STUDY.—In conducting the study under subsection (b), the Government Accountability Office shall, at a minimum, examine the following:

(1) STUDENT DEMOGRAPHICS.—

(A) IN GENERAL.—The size and characteristics of the insured and uninsured population of undergraduate and graduate students enrolled at institutions of higher education. Such data shall be differentiated as provided for in subparagraphs (B) and (C).

(B) STATISTICAL BREAKDOWN.—The data concerning the uninsured student population collected under subparagraph (A) shall be differentiated by—

(i) the full-time, full-time equivalent, and part-time enrollment status of the students involved;

(ii) the type of institution involved (such as a public, private, non-profit, or community institution);

(iii) the length and type of educational program involved (such as a certificate or diploma program, a 2-year or 4-year degree program, a masters degree program, or a doctoral degree program); and

(iv) the undergraduate and graduate student populations involved.

(C) COVERAGE.—The data concerning the insured student population collected under subparagraph (A) shall be differentiated by the sources of coverage for such students, including the number and percentage of such insured students who lose parental (or other) coverage during the course of their enrollment at such institutions and the age at which such coverage is lost.

(2) IMPACT ANALYSIS.—The financial and other impact of uninsured students at such institutions, as compared to insured students, on—

(A) the health of students;

(B) the student's family;

(C) the student's educational progress; and

(D) education and health care institutions and facilities.

(3) ASSESSMENT OF EXISTING PROGRAMS.—The effect of mandatory and voluntary programs on the access of students to health insurance coverage, including—

(A) the level and type of coverage provided through mandatory and voluntary State and institutionally-sponsored health care programs currently providing health care insurance coverage to students;

(B) the average premium paid with respect to students covered under such plans;

(C) the extent to which any State or institutional health insurance plan may serve as a model for the expansion of access to health insurance for all full-time undergraduate and graduate students attending an institution of higher education; and

(D) whether such programs targeted to the student population would be more effective in reducing the overall rate of uninsured relative to proposals targeted to broader populations.

(4) INCENTIVES AND DISINCENTIVES.—The existence of incentives and disincentives offered to institutions of higher education to expand access to health care coverage for students, including—

(A) an assessment of the types of incentives and disincentives that may be used to encourage or require an institution of higher education to include health care coverage for all of its students on a mandatory basis, including financial, regulatory, administrative, and other incentives or disincentives;

(B) a list of burdensome regulatory or administrative reporting and other requirements (from the Department of Education or other governmental agencies) that could be waived without compromising program integrity as a means of encouraging institutions of higher education to provide uninsured students with access to health care coverage;

(C) other incentives or disincentives that would increase the level of institutional participation in health care coverage programs; and

(D) an analysis of the costs and effectiveness (to reduce the number of uninsured students) of including the cost of health insurance as an allowable cost of attendance under the Higher Education Act of 1965, and the impact of such inclusion on the student's financial aid package.

(e) CONSULTATION WITH CONGRESS.—In carrying out the study under subsection (b), the Government Accountability Office shall consult on a regular basis with the Secretary of Education, the Secretary of Health and Human Services, the Committee on the Budget of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the Committee on the Budget and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, a report concerning the results of the study conducted under this section.

SEC. 244. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

"SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

''(a) EXTENSION OF SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of this section for the State's costs of creation and initial operation of such a pool.

''(b) GRANTS FOR OPERATIONAL LOSSES.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

''(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

''(B) offers a choice of two or more coverage options through the pool; and

''(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(i) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

''(2) ALLOTMENT.—The amounts appropriated under subsection (d)(1)(B)(i) for a fiscal year shall be made available to the States (or the entities that operate the high risk pool under applicable State law) as follows:

''(A) An amount equal to 50 percent of the appropriated amount for the fiscal year shall be allocated in equal amounts among each eligible State that applies for assistance under this subsection.

''(B) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all States (as determined by the Secretary).

''(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary).

''(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool, the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(ii) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

''(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

''(A) Low-income premium subsidies.

''(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

''(C) An expansion or broadening of the pool of individuals eligible for coverage, including eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

''(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

''(E) Increased benefits.

''(F) The establishment of disease management programs.

''(3) LIMITATION.—In allotting amounts under this subsection, the Secretary shall ensure that no State receives an amount that exceeds 10 percent of the amount appropriated for the fiscal year involved under subsection (d)(1)(B)(ii).

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit States that, on the date of enactment of the State High Risk Pool Funding Extension Act of 2005, are in the process of implementing programs to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

''(d) FUNDING.—

''(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

''(A) $15,000,000 for the period of fiscal years 2005 and 2006 to carry out subsection (a); and

''(B) $75,000,000 for each of fiscal years 2005 through 2009, of which—

''(i) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

''(ii) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(2).

''(2) AVAILABILITY.—Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year.

''(3) REALLOTMENT.—If, on June 30 of each fiscal year, the Secretary determines that all amounts appropriated under paragraph (1)(B)(ii) for the fiscal year are not allotted, such remaining amounts shall be allotted among States receiving grants under subsection (b) for the fiscal year in amounts determined appropriate by the Secretary.

''(4) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

''(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(f) DEFINITIONS.—In this section:

''(1) QUALIFIED HIGH RISK POOL.—

''(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible individuals through—

''(i) a combination of a qualified high risk pool and an acceptable alternative mechanism; or

''(ii) other health insurance coverage described in subparagraph (B).

''(B) HEALTH INSURANCE COVERAGE.—Health insurance coverage described in this subparagraph is individual health insurance coverage—

''(i) that meets the requirements of section 2741;

''(ii) that is subject to limits on the rates charged to individuals;

''(iii) that is available to all individuals eligible for health insurance coverage under this title who are not able to participate in a qualified high risk pool; and

''(iv) the defined rate limit of which does not exceed the limit allowed for a qualified risk pool that is otherwise eligible to receive assistance under a grant under this section.

''(C) OTHER COVERAGE.—In addition to coverage described in subparagraph (B), a State may provide for the offering of health insurance coverage that provides first dollar coverage, limits on cost-sharing, and comprehensive medical, hospital and surgical coverage, if the limits on rates for such coverage do not exceed 125 percent of the limit described in subparagraph (B)(iv).

''(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

''(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(B) that is established using reasonable actuarial techniques; and

''(C) that reflects anticipated claims experience and expenses for the coverage involved.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.''.

SEC. 245. SENSE OF THE SENATE ON AFFORDABLE HEALTH COVERAGE FOR SMALL EMPLOYERS.

It is the sense of the Senate that Congress should pass legislation to support expanded, affordable health coverage options for individuals, particularly those who work for small businesses, by streamlining and reducing regulations and expanding the role of associations and other group purchasing arrangements.

Subtitle F—Covering Kids

SEC. 251. SHORT TITLE.

This subtitle may be cited as the ''Covering Kids Act of 2005''.

SEC. 252. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) GRANTS FOR EXPANDED OUTREACH ACTIVITIES.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. EXPANDED OUTREACH ACTIVITIES.

''(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

''(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

''(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

''(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

''(A) eligible entities that propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

''(i) Federal health safety net organizations; or

''(ii) faith-based organizations or consortia.

''(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

''(2) an assurance that the entity shall—

''(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

''(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

''(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

''(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State or local government.

''(B) A Federal health safety net organization.

''(C) A national, local, or community-based public or nonprofit private organization.

''(D) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(E) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

''(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(D) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $50,000,000 for each of fiscal years 2006 and 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsection (a)(1)(D)(iii) of that section.''.

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by striking ''or (a)(10)(A)(ii)(IX)'' and inserting ''(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applications for child health assistance under title XXI''.

SEC. 253. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for a child who is under an age specified by the State (not to exceed 21 years of age) by using a determination made within a reasonable period (as determined by the State) before its use for this purpose, of the child's family or household income, or if applicable for purposes of determining eligibility under this title or title XXI, assets or resources, by a Federal or State agency, or a public or private entity making such determination on behalf of such agency, specified by the plan, including (but not limited to) an agency administering the State program funded under part A of title IV, the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, or the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

''(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and

''(ii) any information furnished by the agency pursuant to this subparagraph is used solely for purposes of determining financial eligibility for medical assistance under this title or for child health assistance under title XXI.

''(B) Nothing in subparagraph (A) shall be construed—

''(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;

''(ii) to relieve a State of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph;

''(iii) to relieve a State of the obligation to determine eligibility for medical assistance under this title or for child health assistance under title XXI on a basis other than family or household income (or, if applicable, assets or resources) if a child is determined ineligible for such assistance on the basis of information furnished pursuant to this paragraph; or

''(iv) as affecting the applicability of any non-financial requirements for eligibility for medical assistance under this title or child health assistance under title XXI.''.

(b) SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

''(E) Section 1902(e)(13) (relating to the State option to base a determination of child's financial eligibility for assistance on financial determinations made by a program providing nutrition or other public assistance).''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

TITLE III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

SEC. 301. PURPOSE.

It is the purpose of this subtitle to enhance the quality of life of residents of high need areas by increasing their access to the preventive and primary healthcare services provided by community health centers and rural health centers.

SEC. 302. HIGH NEED COMMUNITY HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) by redesignating subsections (k) through (r) as subsections (l) through (s), respectively;

(2) by inserting after subsection (j), the following:

''(k) PRIORITY FOR RESIDENTS OF HIGH NEED AREAS.—

''(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give priority to eligible health centers in high need areas.

''(2) ELIGIBLE HEALTH CENTERS.—A health center is described in this paragraph if such health center—

''(A) is a health center as defined under subsection (a) or a rural health clinic that receives funds under section 330A;

''(B) agrees to use grant funds to provide preventive and primary healthcare services to residents of high need areas;

''(C) specifically requests such priority in the grant application;

''(D) describes how the community to be served meets the definition of high need area; and

''(E) otherwise meets all other grant requirements.

''(3) HIGH NEED AREA.—

''(A) IN GENERAL.—In this subsection, the term 'high need area' means a county or a regional area identified by the Secretary pursuant to the regulations promulgated under subparagraph (B).

''(B) REGULATIONS.—The Secretary shall promulgate regulations that define the term 'high need area' for purposes of this subsection. Such regulations shall specify procedures that the Department shall follow in determining estimates on a periodic basis in the United States of the number of medically uninsured persons and the national percentage of medically uninsured persons served by health centers (referred to in this subsection as the 'ENP') and for the designation of an area as a 'high need area' if the estimated percentage of medically uninsured individuals in the area is higher than the national average and the estimated percentage of medically uninsured individuals in the area served by health centers in the area is below the ENP.

''(C) MEDICALLY UNDERSERVED AREA.—The Secretary shall designate residents of high need areas as medically underserved for purposes of this section.

''(4) FUNDING PREFERENCE.—The Secretary may limit the amount of grants awarded to applicants from high need areas as provided for in this subsection to not less than 25 percent of the total amount of grants awarded under this subsection for each grant category for each grant period.'';

(3) in subsection (e)(1)(B), by striking ''subsection (k)(3)'' and inserting ''subsection (l)(3)'';

(4) in subsection (l)(3)(H)(iii) (as so redesignated), by striking ''or (p)'' and inserting ''or (q)'';

(5) in subsection (m) (as so redesignated), by striking ''subsection (k)(3)'' and inserting ''subsection (l)(3)'';

(6) in subsection (q) (as so redesignated), by striking ''subsection (k)(3)(G)'' and inserting ''subsection (l)(3)(G)''; and

(7) in subsection (s)(2)(A) (as so redesignated), by striking ''subsection (k)'' each place that such appears and inserting ''subsection (l)''.

SEC. 303. GRANT APPLICATION PROCESS.

Section 330(k) of the Public Health Service Act (42 U.S.C. 254b(k)) is amended by adding at the end the following:

''(5) ECONOMIC VIABILITY OF APPLICANTS.—

''(A) IN GENERAL.—In considering applications under this section, the Secretary shall ensure that an application that demonstrates economic viability, consistent with funding guidelines established by the Secretary for purposes of this section, is not disadvantaged in the evaluation process on the basis that it relies solely on Federal funding.

''(B) QUALIFICATION OF INDIVIDUALS REVIEWING APPLICATIONS.—The Secretary shall require verification that all individuals who are evaluating community health center grant applications have completed within the 3-year period ending on the date on which the application is being evaluated a training course on the community health center program which addresses the purposes served by community health centers, the critical role of community health centers in the safety net, expectations for the evaluation of applications, and the criteria for awarding grant funding.

''(C) MEDICALLY UNDERSERVED DESIGNATIONS.—Not later than 6 months after the date of enactment of this paragraph, the Administrator of the Health Resources and Services Administration shall submit to the appropriate committees of Congress a report concerning the process for designating an area or population as medically underserved. Such report shall contain recommendations for ensuring that such designations are current within the last 3 years. The report shall also detail plans for ensuring subsequent review to maintain an accurate reflection of community needs in areas and populations designated as medically underserved. Not later than 1 year after such date of enactment, the Secretary shall promulgate regulations based on the recommendations contained in the report.''.

Subtitle B—Qualified Integrated Health Care systems

SEC. 321. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

(a) ELIGIBILITY FOR GRANTS UNDER PHSA.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

''Subpart XI—Promotion of Integrated Health Care Systems Serving Medically Underserved Populations

''SEC. 340H. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

''(a) DEFINITIONS.—For purposes of this section:

''(1) QUALIFIED INTEGRATED HEALTH CARE SYSTEM.—The term 'qualified integrated health care system' means an integrated health care system that—

''(A) has a demonstrated capacity and commitment to provide a full range of primary, specialty, and hospital care to a medically underserved population in both inpatient and outpatient settings, as appropriate;

''(B) is organized to provide such care in a coordinated fashion;

''(C) operates one or more integrated health centers meeting the requirements of section 340I;

''(D) meets the requirements of subsection (c)(3); and

''(E) agrees to use any funds received under this section to supplement and not to supplant amounts received from other sources for the provision of such care.

''(2) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given such term in section 330(b)(3).

''(b) OPERATING GRANTS.—

''(1) AUTHORITY.—The Secretary may make grants to private nonprofit entities for the costs of the operation of qualified integrated health care systems that provide primary, specialty, and hospital care to medically underserved populations.

''(2) AMOUNT.—

''(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to an integrated health care system shall be determined by the Secretary (taking into account the full range of care, including specialty services, provided by the system), but may not exceed the amount by which the costs of operation of the system in such fiscal year exceed the total of—

''(i) State, local, and other operational funding provided to the system; and

''(ii) the fees, premiums, and third-party reimbursements which the system may reasonably be expected to receive for its operations in such fiscal year.

''(B) PAYMENTS.—Payments under grants under paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

''(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

''(c) APPLICATIONS.—

''(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

''(2) DESCRIPTION OF NEED.—

''(A) IN GENERAL.—An application for a grant under subsection (b)(1) for an integrated health care system shall include—

''(i) a description of the need for health care services in the area served by the integrated health care system;

''(ii) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

''(iii) a demonstration that the health care system will be located so that it will provide services to the greatest number of individuals residing in such area or included in such population group.

''(B) DEMONSTRATIONS.—A demonstration shall be made under clauses (ii) or (iii) of subparagraph (A) on the basis of the criteria prescribed by the Secretary under section 330(b)(3) or on the basis of any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.

''(C) CONDITION OF APPROVAL.—In considering an application for a grant under subsection (b)(1), the Secretary may require as a condition to the approval of such application an assurance that any integrated health center operated by the applicant will provide any required primary health services and any additional health services (as defined in section 340I) that the Secretary finds are needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

''(3) REQUIREMENTS.—The Secretary shall approve an application for a grant under subsection (b)(1) if the Secretary determines that the entity for which the application is submitted is an integrated health care system (within the meaning of subsection (a)) and that—

''(A) the primary, specialty, and hospital care provided by the system will be available

and accessible in the service area of the system promptly, as appropriate, and in a manner which assures continuity;

''(B) the system is participating (or will participate) in a community consortium of safety net providers serving such area (unless other such safety net providers do not exist in a community, decline or refuse to participate, or place unreasonable conditions on their participation);

''(C) all of the centers operated by the system are accredited by a national accreditation body recognized by the Secretary;

''(D) the system will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

''(E) the system provides or will provide services to individuals who are eligible for medical assistance under title XIX of the Social Security Act and to individuals who are eligible for assistance under title XXI of such Act;

''(F) the system—

''(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, and which discounts are adjusted on the basis of the patient's ability to pay;

''(ii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

''(II) will assure that any fees or payments required by the system for such services will be reduced or waived to enable the system to fulfill the assurance described in subclause (I); and

''(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

''(G) the system has established a governing board that selects the services to be provided by the center, approves the center's annual budget, approves the selection of a director for the center, and establishes general policies for the center;

''(H) the system has developed—

''(i) an overall plan and budget that meets the requirements of the Secretary; and

''(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

''(I) the costs of its operations;

''(II) the patterns of use of its services;

''(III) the availability, accessibility, and acceptability of its services; and

''(IV) such other matters relating to operations of the applicant as the Secretary may require;

''(I) the system will review periodically its service area to—

''(i) ensure that the size of such area is such that the services to be provided through the system (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

''(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

''(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the system, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

''(J) in the case of a system which serves a substantial proportion of individuals of limited English-speaking ability, the system has—

''(i) developed a plan and made arrangements for providing services, to the extent practicable, in the predominant language or languages of such individuals and in the cultural context most appropriate to such individuals; and

''(ii) identified one or more individuals on its staff who are fluent in such predominant language or languages and in English and whose responsibilities shall include providing guidance to such individuals and to other appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

''(K) the system maintains appropriate referral relationships between its hospitals, its physicians with hospital privileges, and any integrated health center operated by the system so that primary, specialty care, and hospital care is provided in a continuous and coordinated way; and

''(L) the system encourages persons receiving or seeking health services from the system to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this paragraph, does not violate the requirements of subparagraph (F)(ii)(I).

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

''(2) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

''(e) RECORDS.—

''(1) IN GENERAL.—Each entity which receives a grant under subsection (b)(1) shall establish and maintain such records as the Secretary shall require.

''(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

''(f) AUDITS.—

''(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

''(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting;

''(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary; and

''(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

''(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

''(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

''(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.

''SEC. 340I. INTEGRATED HEALTH CENTER.

''(a) INTEGRATED HEALTH CENTER .—The term 'integrated health center' means an health center that is operated by an integrated health care system and that serves a medically underserved population (as defined for purposes of section 330(b)(3)) by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

''(1) required primary health services (as defined in subsection (b)(1)); and

''(2) as may be appropriate for particular centers additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under paragraph (1);

for all residents of the area served by the center.

''(b) DEFINITIONS.—For purposes of this section:

''(1) REQUIRED PRIMARY HEALTH SERVICES.—The term 'required primary health services' means—

''(A) basic health services which, for purposes of this section, shall consist of—

''(i) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

''(ii) diagnostic laboratory and radiologic services;

''(iii) preventive health services, including—

''(I) prenatal and perinatal services;

''(II) appropriate cancer screening;

''(III) well-child services;

''(IV) immunizations against vaccine-preventable diseases;

''(V) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

''(VI) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

''(VII) voluntary family planning services; and

''(VIII) preventive dental services;

''(iv) emergency medical services; and

''(v) pharmaceutical services and medication therapy management services as may be appropriate for particular centers;

''(B) referrals to providers of medical services (including specialty and hospital care referrals when medically indicated) and other health-related services (including substance abuse and mental health services);

''(C) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, housing, educational, or other related services;

''(D) services that enable individuals to use the services of the center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the languages spoken by a predominant number of such individuals); and

''(E) education of patients and the general population served by the center regarding the availability and proper use of health services.

''(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the center involved. Such term may include—

''(A) behavioral and mental health and substance abuse services;

''(B) recuperative care services; and

''(C) environmental health services.

(b) COVERAGE UNDER THE MEDICARE PROGRAM.—

(1) PART B BENEFIT.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended—

(A) by striking ''services and'' and inserting ''services,''; and

(B) by striking ''services'' the second place it appears and inserting ''services, and integrated health center services''.

(2) DEFINITIONS.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)) is amended—

(A) in the heading—

(i) by striking ''SERVICES AND'' and inserting ''SERVICES,''; and

(ii) by striking ''SERVICES'' the second place it appears and inserting ''SERVICES, AND INTEGRATED HEALTH CENTER SERVICES'';

(B) in paragraph (1)(B), by striking ''paragraph (5))'' and inserting ''paragraph (7));

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (7), (8), and (9), respectively; and

(D) by inserting after paragraph (4) the following new paragraph:

''(5) The term 'integrated health center services' means—

''(A) services of the type described in subparagraphs (A) through (C) of paragraph (1); and

''(B) preventive primary health services that a center is required to provide under section 340I of the Public Health Service Act,

when furnished to an individual as an outpatient of an integrated health center, and for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

''(6) The term 'integrated health center' means a center that is operated by a qualified integrated health care system (as defined in section 340H(a)(1) of the Public Health Service Act that—

''(A) is receiving a grant under section 340H of such Act; or

''(B) is determined by the Secretary to meet the requirements for receiving such a grant.''.

(3) PAYMENT.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of the Social Security Act (42 U.S.C. 1395k(a)(2)(D)) is amended—

(i) by striking ''and (ii)'' and inserting '', (ii)''; and

(ii) by striking ''services'' the second place it appears and inserting ''services, and (iii) integrated health center services.''.

(B) PART B DEDUCTIBLE DOES NOT APPLY.—Section 1833(b)(4) of the Social Security Act (42 U.S.C. 13951(b)(4)) is amended by inserting ''or integrated health center services'' after ''Federally qualified health center services''.

(C) EXCLUSION FROM PAYMENT REMOVED.—The second sentence of section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended by inserting ''or integrated health center services described in section 1861(aa)(5)(B)'' after ''section 1861(aa)(3)(B)''.

(D) WAIVER OF ANTI-KICKBACK RESTRICTION.—Section 1128B(b)(3)(D) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(D)) is amended by inserting ''or by an integrated health center'' after ''Federally qualified health center''.

(4) CONFORMING AMENDMENTS.—(A) Clauses (ii) and (iv) of section 1834(a)(1)(E) of the Social Security Act (42 U.S.C. 1395m(a)(1)(E)) are each amended by striking ''section 1861(aa)(5)'' and inserting ''section 1861(aa)(7)''.

(B) Section 1842(b)(18)(C)(i) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)(i)) is amended by striking ''section 1861(aa)(5)'' and inserting ''section 1861(aa)(7)''.

(C) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (H)(i), by striking ''subsection (aa)(5)'' and inserting ''subsection (aa)(7)''; and

(ii) in subparagraph (K)—

(I) by striking ''subsection (aa)(5)'' each place it appears and inserting ''subsection (aa)(7)''; and

(II) by striking ''subsection (aa)(6)'' and inserting ''subsection (aa)(8)''.

(D) Section 1861(dd)(3)(B) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(B)) is amended by striking ''subsection (aa)(5)'' and inserting ''subsection (aa)(7)''.

(c) RECOGNITION UNDER MEDICAID.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(A) by striking ''and (C)'' and inserting '', (C)''; and

(B) by inserting '', and

''(D) integrated health center services (as defined in subsection (1)(3)(A)) and any other ambulatory services offered by the integrated health center and which are otherwise included in the plan.'' after ''included in the plan'' the second place it appears.

(2) DEFINITIONS.—Section 1905(l) of such Act (42 U.S.C. 1396d(l)) is amended by adding at the end the following:

''(3)(A) The term 'integrated health center services' means services of the type described in subparagraphs (A) through (C) of section 1861(aa) when furnished to an individual as a patient of an integrated health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

''(B) The term 'integrated health center' means a center that is operated by a qualified integrated health care system that—

''(i) is receiving a grant under section 340H of the Public Health Service Act; or

''(ii) is determined by the Secretary, based on the recommendations of the Administrator of the Centers for Medicare & Medicaid Services, to meet the requirements for receiving such a grant.''.

(3) PAYMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (15), by inserting ''and for services described in clause (D) of section 1905(a)(2) in accordance with the provisions of subsection (cc)'' after ''subsection (bb)''; and

(B) by adding at the end the following:

''(cc) PAYMENT FOR SERVICES PROVIDED BY INTEGRATED HEALTH CENTERS.—

''(1) IN GENERAL.—Beginning with fiscal year 2006 with respect to services furnished on or after January 1, 2006, and each succeeding fiscal year, the State plan shall provide for payment for services described in section 1905(a)(2)(D) furnished by an integrated health center in accordance with the provisions of this subsection.

''(2) FISCAL YEAR 2006.—Subject to paragraph (4), for services furnished on and after January 1, 2006, during fiscal year 2006, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to 100 percent of the average of the costs of the center of furnishing such services during fiscal years 2004 and 2005 which are reasonable and related to the cost of furnishing such services, or based on such other tests of reasonableness as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which such regulations do not apply, the same methodology used under section 1833(a)(3), adjusted to take into account any increase or decrease in the scope of such services furnished by the center during fiscal years 2004 and 2005.

''(3) FISCAL YEAR 2007 AND SUCCEEDING FISCAL YEARS.—Subject to paragraph (4), for services furnished during fiscal year 2007 or a succeeding fiscal year, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to the amount calculated for such services under this subsection for the preceding fiscal year—

''(A) increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for that fiscal year; and

''(B) adjusted to take into account any increase or decrease in the scope of such services furnished by the center during that fiscal year.

''(4) ESTABLISHMENT OF INITIAL YEAR PAYMENT AMOUNT FOR NEW CENTERS.—In any case in which an entity first qualifies as an integrated health center after fiscal year 2006, the State plan shall provide for payment for services described in section 1905(a)(2)(D) furnished by the center in the first fiscal year in which the center so qualifies in an amount (calculated on a per visit basis) that is equal to 100 percent of the costs of furnishing such services during such fiscal year based on the rates established under this subsection for the fiscal year for other such centers located in the same or adjacent area with a similar case load or, in the absence of such a center, in accordance with the regulations and methodology referred to in paragraph (2) or based on such other tests of reasonableness as the Secretary may specify. For each fiscal year following the fiscal year in which the entity first qualifies as an integrated health center, the State plan shall provide for the payment amount to be calculated in accordance with paragraph (3).

''(5) ADMINISTRATION IN THE CASE OF MANAGED CARE.—

''(A) IN GENERAL.—In the case of services furnished by an integrated health center pursuant to a contract between the center and a managed care entity (as defined in section 1932(a)(1)(B)), the State plan shall provide for payment to the center by the State of a supplemental payment equal to the amount (if any) by which the amount determined under paragraphs (2), (3), and (4) exceeds the amount of the payments provided under the contract.

''(B) PAYMENT SCHEDULE.—The supplemental payment required under subparagraph (A) shall be made pursuant to a payment schedule agreed to by the State and the integrated health center, but in no case less frequently than every 4 months.

''(6) ALTERNATIVE PAYMENT METHODOLOGIES.—Notwithstanding any other provision of this section, the State plan may provide for payment in any fiscal year to an integrated health center for services described in section 1905(a)(2)(D) in an amount which is determined under an alternative payment methodology that—

''(A) is agreed to by the State and the center; and

''(B) results in payment to the center of an amount which is at least equal to the amount otherwise required to be paid to the center under this section.''.

(4) WAIVER PROHIBITED.—Section 1915(b) of the Social Security Act (42 U.S.C.1396n(b)) is amended in the matter preceding paragraph (1), by inserting ''1902(cc),'' after ''1902(bb),''.

(d) PROTECTION AGAINST LIABILITY.—Section 224(g) of the Public Health Service Act (42 U.S.C. 233(g)) is amended—

(1) In paragraph (4), by striking ''An entity'' and inserting ''Subject to paragraph (6), an entity''; and

(2) by adding at the end the following:

''(6) For purposes of this section—

''(A) a qualified integrated health care system receiving a grant under section 340H and any integrated health center operated by such system shall be considered to be an entity described in paragraph (4); and

''(B) the provisions of this section shall apply to such system and centers in the same manner as such provisions apply to an entity described in such paragraph (4), except that—

''(i) notwithstanding paragraph (1)(B), the deeming of any system or center, or of an officer, governing board member, employee, or contractor of such system or center, to be an employee of the Public Health Service for purposes of this section shall apply only with respect to items and services that are furnished to a member of the underserved population served by the entity;

''(ii) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts or omissions that occur on or after January 1, 2006; and

''(iii) the Secretary shall make separate estimates under subsection (k)(1) with respect to such systems and centers and entities described in paragraph (4) (other than such systems and centers), establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for such systems and centers shall be separate from the amounts authorized by subsection (k)(2).''.

(e) EFFECTIVE DATE.—The amendments made subsections (b) and (c) shall apply to items and services furnished on or after October 1, 2005.

Subtitle C—Miscellaneous Provisions

SEC. 331. COMMUNITY HEALTH CENTER COLLABORATIVE ACCESS EXPANSION.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

''(s) MISCELLANEOUS PROVISIONS.—

''(1) RULE OF CONSTRUCTION WITH RESPECT TO RURAL HEALTH CLINICS.—

''(A) IN GENERAL.—Nothing in this section shall be construed to prevent a community health center from contracting with a federally certified rural health clinic (as defined by section 1861(aa)(2) of the Social Security Act) for the delivery of primary health care services that are available at the rural health clinic to individuals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to those primary health care services available in that rural health clinic.

''(B) ASSURANCES.—In order for a rural health clinic to receive funds under this section through a contract with a community health center under paragraph (1), such rural health clinic shall establish policies to ensure—

''(i) nondiscrimination based upon the ability of a patient to pay; and

''(ii) the establishment of a sliding fee scale for low-income patients.''.

SEC. 332. IMPROVEMENTS TO SECTION 340B PROGRAM.

(a) ELIMINATION OF GROUP PURCHASING PROHIBITION FOR CERTAIN HOSPITALS.—Section 340B(a)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(1) in clause (i), by adding ''and'' at the end;

(2) in clause (ii), by striking ''; and'' and inserting a period; and

(3) by striking clause (iii).

(b) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Section 340B f the Public Health Service Act (42 U.S.C. 256b) is amended by adding at the end the following:

''(e) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Nothing in this section shall be construed as prohibiting a covered entity from entering into contracts with more than one pharmacy for the provision of covered drugs, including a contract that—

''(1) supplements the use of an in-house pharmacy arrangement; or

''(2) requires the approval of the Secretary.''.

(c) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—Section 340B of the Public Health Service Act (42 U.S.C. 256b), as amended by subsection (b), is further amended by adding at the end the following:

''(f) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—

''(1) IN GENERAL.—The Secretary shall provide, from funds appropriated under paragraph (2), for improvements in the integrity and administration of the program under this section in order to prevent abuse and misuse of discounted prices made available under this section. Such improvements shall include the following:

''(A) The development of a system to verify the accuracy of information regarding covered entities that is listed on the Internet website of the Department of Health and Human Services relating to this section.

''(B) The establishment of a third-party auditing system by which covered entities and manufacturers are regularly audited to ensure compliance with the requirements of this section.

''(C) The conduct of such audits under subsection (a)(5)(C) that supplement the audits conducted under subparagraph (B) as the Secretary determines appropriate and the implementation of dispute resolution guidelines and other compliance programs.

''(D) The development of more detailed guidance regarding the definition of section 340B patients and describing options for billing under the medicaid program under title XIX of the Social Security Act in order to avoid duplicative discounts.

''(E) The issuance of advisory opinions within defined time periods in response to questions from manufacturers or covered entities regarding the application of the requirements of this section in specific factual circumstances.

''(F) Insofar as the Secretary determines feasible, providing access through the Internet website of the Department of Health and Human Services on the prices for covered drugs made available under this section, but only in a manner (such as through the use of password protection) that limits such access to covered entities.

''(G) The improved dissemination of educational materials regarding the program under this section to covered entities that are not currently participating in such programs including regional educational sessions.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal year 2006 and each succeeding fiscal year.''.

SEC. 333. FORBEARANCE FOR STUDENT LOANS FOR PHYSICIANS PROVIDING SERVICES IN FREE CLINICS.

(a) IN GENERAL.—Section 428(c)(3)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(3)(A)) is amended—

(1) in clause (i)—

(A) in subclause (III), by striking ''or'' at the end;

(B) in subclause (V), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(V) is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act;''; and

(2) in clause (ii)(III), by inserting ''or (i)(V)'' after ''clause (i)(III)''.

(b) PERKINS PROGRAM.—Section 464(e) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(e)) is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(3) the borrower is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act.''.

SEC. 334. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO LIABILITY.

Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended—

(1) in subsection (g)(1)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking ''or employee'' and inserting ''employee, or (subject to subsection (k)(4)) volunteer practitioner''; and

(ii) in the second sentence, by inserting ''and subsection (k)(4)'' after ''subject to paragraph (5)''; and

(B) by adding at the end the following:

''(I) For purposes of this subsection, the term 'employee' shall include a health professional who volunteers to provide health-related services for an entity described in paragraph (4).'';

(2) in subsection (k), by adding at the end the following:

''(4)(A) Subsections (g) through (m) apply with respect to volunteer practitioners beginning with the first fiscal year for which an appropriations Act provides that amounts in the fund under paragraph (2) are available with respect to such practitioners.

''(B) For purposes of subsections (g) through (m), the term 'volunteer practitioner' means a practitioner who, with respect to an entity described in subsection (g)(4), meets the following conditions:

''(i) The practitioner is a licensed physician or a licensed clinical psychologist.

''(ii) At the request of such entity, the practitioner provides services to patients of the entity, at a site at which the entity operates or at a site designated by the entity. The weekly number of hours of services provided to the patients by the practitioner is not a factor with respect to meeting conditions under this subparagraph.

''(iii) The practitioner does not for the provision of such services receive any compensation from such patients, from the entity, or from third-party payors (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).'';

(3) in subsection (o)(2)—

(A) in subparagraph (D), by striking clause (i) and inserting the following:

''(i) The health care practitioner may provide the services involved as an employee of the free clinic, or may receive repayment from the free clinic only for reasonable expenses incurred by the health care practitioner in the provision of the services to the individual.''; and

(B) by adding at the end the following:

''(G) The health care practitioner is providing the services involved as a paid employee of the free clinic.''; and

(4) in each of subsections (g), (i), (j), (k), (l), and (m), by striking ''employee, or contractor'' each place such term appears and inserting ''employee, volunteer practitioner, or contractor'';

SEC. 335. SENSE OF THE SENATE CONCERNING HEALTH DISPARITIES.

It is the sense of the Senate that additional measures are needed to reduce or eliminate disparities in health care related to race, ethnicity, socioeconomic status, and geography that affect access to quality health care.

By Mr. SPECTER (for himself, Mr. CORZINE, Mr. LAUTENBERG, Mr. SCHUMER, and Ms. SNOWE):

S.J. Res. 21. A joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy; to the Committee on Armed Services.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 21

Whereas John Barry, American merchant marine captain and native of County Wexford, Ireland, volunteered his services to the Continental Navy during the American War for Independence and was assigned by the Continental Congress as captain of the Lexington, taking command of that vessel on March 14, 1776, and later participating in the victorious Trenton campaign;

Whereas the quality and effectiveness of Captain John Barry's service to the American war effort was recognized not only by George Washington but also by the enemies of the new Nation;

Whereas Captain John Barry rejected British General Lord Howe's flattering offer to desert Washington and the patriot cause, stating: ''Not the value and command of the whole British fleet can lure me from the cause of my country.'';

Whereas Captain John Barry, while in command of the frigate Alliance, successfully transported French gold to America to help finance the American War for Independence and also won numerous victories at sea;

Whereas when the First Congress, acting under the new Constitution of the United States, authorized the raising and construction of the United States Navy, it was to Captain John Barry that President George Washington turned to build and lead the new Nation's infant Navy, the successor to the Continental Navy of the War for Independence;

Whereas Captain John Barry supervised the building of his flagship, the U.S.S. United States;

Whereas on February 22, 1797, President Washington personally conferred upon Captain John Barry, by and with the advice and consent of the Senate, the rank of Captain, with ''Commission No. 1'', United States Navy, dated June 7, 1794;

Whereas John Barry served as the senior officer of the United States Navy, with the title of ''Commodore'' (in official correspondence), under Presidents Washington, John Adams, and Jefferson;

Whereas as commander of the first United States naval squadron under the Constitution of the United States, which included the U.S.S. Constitution (''Old Ironsides''), John Barry was a Commodore, with the right to fly a broad pendant, which made him a flag officer; and

Whereas in this sense it can be said that Commodore John Barry was the first flag officer of the United States Navy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Commodore John Barry is recognized, and is hereby honored, as the first flag officer of the United States Navy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 211—DESIGNATING AUGUST 19, 2005, AS ''NATIONAL DYSPRAXIA AWARENESS DAY'' AND EXPRESSING THE SENSE OF THE SENATE THAT ALL AMERICANS SHOULD BE MORE INFORMED OF DYSPRAXIA

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 211

Whereas an estimated 1 in 20 children suffers from the developmental disorder dyspraxia;

Whereas 70 percent of those affected by dyspraxia are male;

Whereas dyspraxics may be of average or above average intelligence but are often behaviorally immature;

Whereas symptoms of dyspraxia consist of clumsiness, poor body awareness, reading and writing difficulties, speech problems, and learning disabilities, though not all of these will apply to every dyspraxic;

Whereas there is no cure for dyspraxia, but the earlier a child is treated the greater the chance of developmental maturation;

Whereas dyspraxics may be shunned within their own peer group because they do not fit in;

Whereas most dyspraxic children are dismissed as ''slow'' or ''clumsy'' and are therefore not properly diagnosed;

Whereas more than 50 percent of educators have never heard of dyspraxia;

Whereas education and information about dyspraxia are important to detection and treatment; and

Whereas the Senate as an institution, and Members of the Senate as individuals, are in unique positions to help raise the public awareness about dyspraxia: Now, therefore, be it

Resolved, That—

(1) the Senate designates August 19, 2005, as ''National Dyspraxia Awareness Day''; and

(2) it is the sense of the Senate that—

(A) all Americans should be more informed of dyspraxia, its easily recognizable symptoms, and its proper treatment;

(B) the Secretary of Education should establish and promote a campaign in elementary and secondary schools across the Nation to encourage the social acceptance of dyspraxic children; and

(C) the Federal Government has a responsibility to—

(i) endeavor to raise awareness about dyspraxia;

(ii) consider ways to increase the knowledge of possible therapy and access to health care services for people with dyspraxia; and

(iii) endeavor to inform educators on how to recognize dyspraxic symptoms and to appropriately handle this disorder.

Ms. LANDRIEU. Mr. President, I rise today to say just a few words on the resolution I have submitted concerning dyspraxia, a developmental disorder that affects 1 in 20 American children each year. My intent is to increase the public's awareness of this disability and to encourage each of my colleagues to do the same.

Let me share a few facts with you. Dyspraxia is caused by the malformation of the neurons of the brain, resulting in the inability of one's senses to respond efficiently to outside stimuli. It may manifest itself in various areas, such as movement, language, perception, and thought, causing difficulty in both work and play. One in twenty children suffers from this disorder. Seventy percent of those affected are male, and in children suffering from extreme emotional and behavioral difficulties, the incidence is likely to be more than 50 percent. Dyspraxic children fail to achieve the expected levels of development. Due to difficulties, these kids are often shunned from their peer groups because they do not fit in. There is no cure for dyspraxia, but the earlier a child is diagnosed the greater the chance of developmental maturation. However, many times these children are dismissed as ''clumsy'' and ''slow'' and are never given a chance to improve, finding it hard to succeed under such harsh speculations. The public's unawareness of dyspraxia is the chief reason that children and young adults go undiagnosed, unable to recognize a cause for their struggles. More than 50 percent of our educators are unaware that this disability even exists. With such alarming statistics, the number of children recognized cannot be expected to increase.

One of my former interns has a younger brother that suffers from this disorder. Borden Wilson is actually a success story. At age 4, Borden's parents noted that he was not able to perform tasks appropriate for his age. His

speaking ability was limited, even with encouragement. After going through a battery of tests performed by various specialists, the problem was identified as dyspraxia. While working with speech and occupational therapists, Borden's parents became familiar with techniques geared to improve his motor capabilities. Though advancements were seen, Borden still lagged behind his peers and low self-esteem soon set in. Borden is 17 years old now and through the hard work of teachers, therapists, and family, he has overcome many of his problems and is successful in both school and extracurricular activities. I am pleased to announce that Borden now maintains a 4.5 grade point average, has received his school's Scholar Athlete Award for the last 2 years, and placed in the 97th percentile on his California Achievement Test. Additionally, he has received All-District honors in both football and track.

Borden's superior achievements should serve as our inspiration to promote awareness of dyspraxia. With proper diagnosis and treatment, all of these children can experience the same level of success that Borden has been able to achieve. I hope that my colleagues will come together in support of this important legislation to raise consciousness of this disability.

SENATE RESOLUTION 212—EXPRESSING THE SENSE OF THE SENATE THAT THE FEDERAL TRADE COMMISSION SHOULD INVESTIGATE THE PUBLICATION OF THE VIDEO GAME ''GRAND THEFT AUTO: SAN ANDREAS'' TO DETERMINE IF THE PUBLISHER DECEIVED THE ENTERTAINMENT SOFTWARE RATINGS BOARD TO AVOID AN ''ADULTS ONLY'' RATING

Mr. BROWNBACK submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 212

Whereas the Entertainment Software Ratings Board gave the video game ''Grand Theft Auto: San Andreas'' a rating of ''Mature'';

Whereas the video game ''Grand Theft Auto: San Andreas'' contains sexually explicit content that consumers are able to access but that appears to have been hidden from the Entertainment Software Ratings Board in order to avoid a rating of ''Adults Only'';

Whereas the Entertainment Software Ratings Board took swift action in investigating the matter and revoked the ''Mature'' rating, ensuring that any future sales of the video game ''Grand Theft Auto: San Andreas'' will be under an ''Adults Only'' rating; and

Whereas Rockstar Games, the publisher of the video game ''Grand Theft Auto: San Andreas'', may have deceived the Entertainment Software Ratings Board and consumers: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Federal Trade Commission should investigate the publication of the video game ''Grand Theft Auto: San Andreas'' to determine if the publisher, Rockstar Games, deceived the Entertainment Software Ratings Board to avoid an ''Adults Only'' rating; and

(2) if the Federal Trade Commission determines that Rockstar Games committed such deception, the Commission should impose the maximum penalty possible.

SENATE RESOLUTION 213—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF KEYTER V. MCCAIN, ET AL.

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 213

Whereas, in the case of Keyter v. McCain, et al., Civ. No. 05–1923, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(l), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved,That the Senate Legal Counsel is authorized to represent Senators John McCain and Jon Kyl in the case of Keyter v. McCain, et al.

SENATE RESOLUTION 214—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF JONES V. SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, ET AL.

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 214

Whereas, in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al., Civ. No. 05–1944, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain, Jon Kyl, and other unnamed Members of the Senate in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al.

SENATE CONCURRENT RESOLUTION 47—PAYING TRIBUTE TO THE AFRICA-AMERICA INSTITUTE FOR ITS MORE THAN 50 YEARS OF DEDICATED SERVICE, NURTURING AND UNLEASHING THE PRODUCTIVE CAPACITIES OF KNOWLEDGEABLE, CAPABLE, AND EFFECTIVE AFRICAN LEADERS THROUGH EDUCATION

Ms. LANDRIEU submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 47

Whereas the Africa-America Institute (in this resolution referred to as the ''AAI'') was founded in 1953, to help build human and institutional capacity in Africa and to promote mutually beneficial relations between the United States and Africa through education;

Whereas 2 of the most prominent founders of AAI were leading African-American educators and intellectuals, Horace Mann Bond, the first Black president of Lincoln University, and Leo Hansberry, the Howard University scholar and historian renowned today as the ''father of African studies'';

Whereas with funding from the government, the private sector, and philanthropic sources, AAI has advanced its mission on the dual premises that higher education is the highest leveraging point for achieving sustainable gains all along the education pipeline, and that investments in education generate high rates of return by multiplying the impact of development achievements across sectors of global importance, such as health, education, trade, investment, peace, and security;

Whereas the 22,000 education program alumni of AAI come from 52 African countries, including extraordinary individuals such as Wangari Maathai, recipient of the 2004 Nobel Peace Prize;

Whereas alumni of AAI are leaders in African education, business, government, and nongovernmental organizations working to change economic and social structures in African communities, societies, and nations for the better;

Whereas a 2004 impact assessment commissioned by the United States Agency for International Development (in this resolution referred to as ''USAID'') found ''USAID's multi-million dollar investment in long-term training'' programs that were managed and run by AAI ''for over 40 years produced significant and sustained changes that furthered African development in measurable ways'';

Whereas, as a corollary to its work aimed at expanding educational opportunities for Africans, AAI has also served as a source of reliable and balanced information on Africa for American public and private sector leaders;

Whereas Members of Congress and their staff are among those who have helped achieve and continue to build on this legacy, fulfilling the education mission of AAI by working with partners in Africa, the United States, and other parts of the world on behalf of Africa;

Whereas competing in the information age requires high levels of technical knowledge and skills, but the level of need and demand for higher education and technical training in Africa exceeds the capacities of education sectors in most African countries;

Whereas, consistent with the aspirations and goals of the African Union's ''New Partnership for Africa's Development'', AAI has stepped up to meet these new challenges with the creation of the ''African Technology for Education and Workforce Development'' initiative (in this resolution referred to as ''AFTECH''), a collaborative effort designed to harness the power of information technologies to deliver the highest quality global educational content to Africans where they live;

Whereas, in order to improve and expand upon the reach and impact of AFTECH, and to raise awareness in the United States of the converging global interests that warrant greater United States public and private engagement with, and investment in Africa, AAI used the occasion of its 50th anniversary in 2003, to launch the AAI ''Education Partnership Campaign: 50,000 New Leaders in

Five Years'', with a goal of raising $25,000,000 in private and public sector support to educate and train 50,000 Africans during the 5-year campaign;

Whereas, with the Republic of Namibia in the vanguard, a growing number of African nations are choosing to invest in their people by directly supporting the advanced education, professional training programs, and other education resources that AAI has to offer;

Whereas AAI works with sponsoring African governments to identify and leverage additional funding wherever feasible, and assists countries with making the case to multinational companies doing business within their borders that investing in the human capital of African countries through education is in their mutual interest; and

Whereas AAI can boast of a remarkable history and unparalleled program track record, and is building on its past to meet current and future challenges facing Africa as well as the United States: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) pays tribute to the Africa-American Institute for its more than 50 years of dedicated service, nurturing and unleashing the productive capacities of knowledgeable, capable, and effective African leaders through education;

(2) embraces the mission and supports the work of AAI; and

(3) urges Members of Congress and others to join the AAI ''Education Partnership Campaign: 50,000 New Leaders in Five Years'', a major initiative toward achieving closer United States-Africa relations that advance mutual national and global interests and a high yield investment in Africa's capacity to build a future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1580. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1537 submitted by Ms. Snowe and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table.

SA 1581. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1556 proposed by Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1582. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 1527 submitted by Mrs. BOXER (for herself and Ms. SNOWE) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1583. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 203, to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

SA 1584. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 203, supra.

SA 1585. Ms. COLLINS (for Mr. BINGAMAN (for himself and Mr. DOMENICI)) proposed an amendment to the bill S. 214, to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

SA 1586. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 243, to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

SA 1587. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 264, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii.

SA 1588. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 128, to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

SA 1589. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 136, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

SA 1590. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 136, supra.

SA 1591. Ms. COLLINS (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 279, to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

SA 1592. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table.

SA 1593. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1522 submitted by Mrs. DOLE and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1594. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1499 submitted by Mr. KERRY and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1595. Mr. GRAHAM (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1596. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1597. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1524 submitted by Mrs. DOLE (for herself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DEWINE, Ms. LANDRIEU, Mr. CHAFEE, Ms. MIKULSKI, Mr. CHAMBLISS, and Mr. DURBIN) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1598. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1599. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1366 submitted by Mr. FEINGOLD and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1600. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1406 submitted by Mr. LUGAR and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1601. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1602. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 1567 submitted by Mr. WARNER and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1604. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1580. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1537 submitted by Ms. SNOWE and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 815. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1581. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1556 proposed by Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 3 through 11.

SA 1582. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 1527 submitted by Mrs. BOXER (for herself and Ms. SNOWE) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

Insert before the closing quotation marks the following: ''but only if the identity of the perpetrator of such act of incest is provided to a designated officer, at the time the abortion is sought, for transmission to the appropriate military or civilian law enforcement authorities, or, in the case of rape, only if the identity of the perpetrator of that act of rape, if known to the victim, is provided to a designated officer, at the time the abortion is sought, for transmission to the appropriate military or civilian law enforcement authorities''.

SA 1583. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 203, to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Heritage Areas Act of 2005''.

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

TITLE I—SODA ASH ROYALTY REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Soda Ash Royalty Reduction Act of 2005''.

SEC. 102. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of enactment of this Act shall be 2 percent.

SEC. 103. STUDY.

After the end of the 4-year period beginning on the date of enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to Congress on the effects of the royalty reduction under this title, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of enactment of this Act.

TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

Subtitle A—Northern Rio Grande National Heritage Area

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Northern Rio Grande National Heritage Area Act''.

SEC. 202. FINDINGS.

The Congress finds that—

(1) northern New Mexico encompasses a mosaic of cultures and history, including eight Pueblos and the descendants of Spanish ancestors who settled in the area in 1598;

(2) the combination of cultures, languages, folk arts, customs, and architecture make northern New Mexico unique;

(3) the area includes spectacular natural, scenic, and recreational resources;

(4) there is broad support from local governments and interested individuals to establish a National Heritage Area to coordinate and assist in the preservation and interpretation of these resources;

(5) in 1991, the National Park Service study Alternative Concepts for Commemorating Spanish Colonization identified several alternatives consistent with the establishment of a National Heritage Area, including conducting a comprehensive archaeological and historical research program, coordinating a comprehensive interpretation program, and interpreting a cultural heritage scene; and

(6) establishment of a National Heritage Area in northern New Mexico would assist local communities and residents in preserving these unique cultural, historical and natural resources.

SEC. 203. DEFINITIONS.

As used in this subtitle—

(1) the term ''heritage area'' means the Northern Rio Grande National Heritage Area; and

(2) the term ''Secretary'' means the Secretary of the Interior.

SEC. 204. NORTHERN RIO GRANDE NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Northern Rio Grande National Heritage Area in the State of New Mexico.

(b) BOUNDARIES.—The heritage area shall include the counties of Santa Fe, Rio Arriba, and Taos.

(c) LOCAL COORDINATING ENTITY.—

(1) The Northern Rio Grande National Heritage Area, Inc., a non-profit corporation chartered in the State of New Mexico, shall serve as the local coordinating entity for the heritage area.

(2) The Board of Directors for the local coordinating entity shall include representatives of the State of New Mexico, the counties of Santa Fe, Rio Arriba and Taos, tribes and pueblos within the heritage area, the cities of Santa Fe, Espanola and Taos, and members of the general public. The total number of Board members and the number of Directors representing State, local and tribal governments and interested communities shall be established to ensure that all parties have appropriate representation on the Board.

SEC. 205. AUTHORITY AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) MANAGEMENT PLAN.—

(1) Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and forward to the Secretary a management plan for the heritage area.

(2) The local coordinating entity shall develop and implement the management plan in cooperation with affected communities, tribal and local governments and shall provide for public involvement in the development and implementation of the management plan.

(3) The management plan shall, at a minimum—

(A) provide recommendations for the conservation, funding, management, and development of the resources of the heritage area;

(B) identify sources of funding;

(C) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the heritage area;

(D) provide recommendations for educational and interpretive programs to inform the public about the resources of the heritage area; and

(E) include an analysis of ways in which local, State, Federal, and tribal programs may best be coordinated to promote the purposes of this subtitle.

(4) If the local coordinating entity fails to submit a management plan to the Secretary as provided in paragraph (1), the heritage area shall no longer be eligible to receive Federal funding under this subtitle until such time as a plan is submitted to the Secretary.

(5) The Secretary shall approve or disapprove the management plan within 90 days after the date of submission. If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the plan.

(6) The local coordinating entity shall periodically review the management plan and submit to the Secretary any recommendations for proposed revisions to the management plan. Any major revisions to the management plan must be approved by the Secretary.

(b) AUTHORITY.—The local coordinating entity may make grants and provide technical assistance to tribal and local governments, and other public and private entities to carry out the management plan.

(c) DUTIES.—The local coordinating entity shall—

(1) give priority in implementing actions set forth in the management plan;

(2) coordinate with tribal and local governments to better enable them to adopt land use policies consistent with the goals of the management plan;

(3) encourage by appropriate means economic viability in the heritage area consistent with the goals of the management plan; and

(4) assist local and tribal governments and non-profit organizations in—

(A) establishing and maintaining interpretive exhibits in the heritage area;

(B) developing recreational resources in the heritage area;

(C) increasing public awareness of, and appreciation for, the cultural, historical, archaeological and natural resources and sites in the heritage area;

(D) the restoration of historic structures related to the heritage area; and

(E) carrying out other actions that the local coordinating entity determines appropriate to fulfill the purposes of this subtitle, consistent with the management plan.

(d) PROHIBITION ON ACQUIRING REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or an interest in real property.

(e) PUBLIC MEETINGS.—The local coordinating entity shall hold public meetings at least annually regarding the implementation of the management plan.

(f) ANNUAL REPORTS AND AUDITS.—

(1) For any year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each entity to which any grant was made by the local coordinating entity.

(2) The local coordinating entity shall make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds. The local coordinating entity shall also require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organization make available to the Secretary for audit all records concerning the expenditure of those funds.

SEC. 206. DUTIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon request of the local coordinating entity, provide technical and financial assistance to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, archaeological, scenic, and recreational resources of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities consistent with the resources and associated values of the heritage area.

SEC. 207. SAVINGS PROVISIONS.

(a) NO EFFECT ON PRIVATE PROPERTY.—Nothing in this subtitle shall be construed—

(1) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands; or

(2) to grant the local coordinating entity any authority to regulate the use of privately owned lands.

(b) TRIBAL LANDS.—Nothing in this subtitle shall restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

(c) AUTHORITY OF GOVERNMENTS.—Nothing in this subtitle shall—

(1) modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation; or

(2) authorize the local coordinating entity to assume any management authorities over such lands.

(d) TRUST RESPONSIBILITIES.—Nothing in this subtitle shall diminish the Federal Government's trust responsibilities or government-to-government obligations to any federally recognized Indian tribe.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle

$10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 209. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle B—Atchafalaya National Heritage Area

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Atchafalaya National Heritage Area Act''.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Atchafalaya National Heritage Area established by section 213(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 213(c).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under section 215.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Louisiana.

SEC. 213. ATCHAFALAYA NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Atchafalaya National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) COMPOSITION.—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

SEC. 214. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For the purposes of developing and implementing the management plan and otherwise carrying out this subtitle, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—The local coordinating entity shall—

(1) submit to the Secretary for approval a management plan;

(2) implement the management plan, including providing assistance to units of government and others in—

(A) carrying out programs that recognize important resource values within the Heritage Area;

(B) encouraging sustainable economic development within the Heritage Area;

(C) establishing and maintaining interpretive sites within the Heritage Area; and

(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

(3) adopt bylaws governing the conduct of the local coordinating entity; and

(4) for any year for which Federal funds are received under this subtitle, submit to the Secretary a report that describes, for the year—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

(c) ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or an interest in real property.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly.

SEC. 215. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the local coordinating entity shall—

(1) take into consideration State and local plans; and

(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) CONTENTS.—The management plan shall include—

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this subtitle;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this subtitle until a management plan for the Heritage Area is submitted to the Secretary.

(e) APPROVAL.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) REVISION.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 216. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent to the local coordinating entity for such preservation, conservation, or promotion.

(b) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Area shall have that private property immediately removed from the boundary by submitting a written request to the local coordinating entity.

SEC. 217. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on that private property.

(c) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

SEC. 218. EFFECT OF SUBTITLE.

Nothing in this subtitle or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

SEC. 219. REPORTS.

For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 221. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance to the local coordinating entity under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle C—Arabia Mountain National Heritage Area

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Arabia Mountain National Heritage Area Act''.

SEC. 232. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(2) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(3) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(A) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(B) includes federally-protected plant species.

(4) Panola Mountain, a national natural landmark, located in the 860-acre Panola Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(5) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(6) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(7) The community of Klondike is eligible for designation as a National Historic District.

(8) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural, historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(2) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

SEC. 233. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term ''heritage area'' means the Arabia Mountain National Heritage Area established by section 234(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Arabia Mountain Heritage Area Alliance or a successor of the Arabia Mountain Heritage Area Alliance.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the heritage area developed under section 236.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Georgia.

SEC. 234. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(b) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled ''Arabia Mountain National Heritage Area'', numbered AMNHA–80,000, and dated October 2003.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the local coordinating entity for the heritage area.

SEC. 235. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The local coordinating entity shall develop and submit to the Secretary the management plan.

(B) CONSIDERATIONS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(2) PRIORITIES.—The local coordinating entity shall give priority to implementing actions described in the management plan, including the following:

(A) Assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(B) Encouraging local governments to adopt land use policies consistent with the management of the heritage area and the goals of the management plan.

(3) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(4) ANNUAL REPORT.—For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes the following:

(A) The accomplishments of the local coordinating entity.

(B) The expenses and income of the local coordinating entity.

(5) AUDIT.—The local coordinating entity shall—

(A) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(B) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this subtitle precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 236. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(b) BASIS.—The management plan shall be based on the preferred concept in the document entitled ''Arabia Mountain National Heritage Area Feasibility Study'', dated February 28, 2001.

(c) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(1) take into consideration State and local plans; and

(2) involve residents, public agencies, and private organizations in the heritage area.

(d) REQUIREMENTS.—The management plan shall include the following:

(1) An inventory of the resources in the heritage area, including—

(A) a list of property in the heritage area that—

(i) relates to the purposes of the heritage area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the heritage area.

(2) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this subtitle.

(3) An interpretation plan for the heritage area.

(4) A program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(5) A description and evaluation of the local coordinating entity, including the membership and organizational structure of the local coordinating entity.

(e) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this subtitle until such date as a management plan for the heritage area is submitted to the Secretary.

(f) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (e), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(g) REVISION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 237. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—At the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

SEC. 238. EFFECT ON CERTAIN AUTHORITY.

(a) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this subtitle—

(1) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in section 234(b) but for the establishment of the heritage area by section 234(a); or

(2) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in section 234(b) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by section 234(a).

(b) LAND USE REGULATION.—Nothing in this subtitle—

(1) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(2) grants powers of zoning or land use to the local coordinating entity.

SEC. 239. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this subtitle shall not exceed 50 percent.

SEC. 240. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle D—Mormon Pioneer National Heritage Area

SEC. 251. SHORT TITLE.

This subtitle may be cited as the ''Mormon Pioneer National Heritage Area Act''.

SEC. 252. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(2) in the area starting along the Highway 89 corridor at the Arizona border, passing through Kane, Garfield, Piute, Sevier, Wayne, and Sanpete Counties in the State of Utah, and terminating in Fairview, Utah, there are a variety of heritage resources that demonstrate—

(A) the colonization of the western United States; and

(B) the expansion of the United States as a major world power;

(3) the great relocation to the western United States was facilitated by—

(A) the 1,400–mile trek from Illinois to the Great Salt Lake by the Mormon pioneers; and

(B) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California;

(4) the 250-mile Highway 89 corridor from Kanab to Fairview, Utah, contains some of the best features of the Mormon colonization experience in the United States;

(5) the landscape, architecture, traditions, beliefs, folk life, products, and events along Highway 89 convey the heritage of the pioneer settlement;

(6) the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers—

(A) interacted with Native Americans; and

(B) established towns and cities in a harsh, yet spectacular, natural environment;

(7) the colonization and settlement of the Mormon settlers opened up vast amounts of natural resources, including coal, uranium, silver, gold, and copper;

(8) the Mormon colonization played a significant role in the history and progress of the development and settlement of the western United States; and

(9) the artisans, crafters, innkeepers, outfitters, farmers, ranchers, loggers, miners, historic landscape, customs, national parks, and architecture in the Heritage Area make the Heritage Area unique.

(b) PURPOSE.—The purpose of this subtitle is to establish the Heritage Area to—

(1) foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities in the State;

(2) empower communities in the State to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(3) conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the Heritage Area; and

(4) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the Heritage Area.

SEC. 253. DEFINITIONS.

In this subtitle:

(1) ALLIANCE.—The term ''Alliance'' means the Utah Heritage Highway 89 Alliance.

(2) HERITAGE AREA.—The term ''Heritage Area'' means the Mormon Pioneer National Heritage Area established by section 254(a).

(3) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 255(a).

(4) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the local coordinating entity under section 256(a).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Utah.

SEC. 254. MORMON PIONEER NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Mormon Pioneer National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the Heritage Area shall include areas in the State —

(A) that are related to the corridors—

(i) from the Arizona border northward through Kanab, Utah, and to the intersection of Highway 89 and Highway 12, including Highway 12 and Highway 24 as those highways loop off Highway 89 and rejoin Highway 89 at Sigurd;

(ii) from Highway 89 at the intersection of Highway 12 through Panguitch, Junction, Marysvale, and Sevier County to Sigurd;

(iii) continuing northward along Highway 89 through Axtell and Sterling, Sanpete County, to Fairview, Sanpete County, at the junction with Utah Highway 31; and

(iv) continuing northward along Highway 89 through Fairview and Thistle Junction, to the junction with Highway 6; and

(B) including the following communities: Kanab, Mt. Carmel, Orderville, Glendale, Alton, Cannonville, Tropic, Henrieville, Escalante, Boulder, Teasdale, Fruita, Hanksville, Torrey, Bicknell, Loa, Hatch, Panquitch, Circleville, Antimony, Junction, Marysvale, Koosharem, Sevier, Joseph, Monroe, Elsinore, Richfield, Glenwood, Sigurd, Aurora, Salina, Mayfield, Sterling, Gunnison, Fayette, Manti, Ephraim, Spring City, Mt. Pleasant, Moroni, Fountain Green, and Fairview.

(2) MAP.—The Secretary shall prepare a map of the Heritage Area, which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(3) NOTICE TO LOCAL GOVERNMENTS.—The local coordinating entity shall provide to the government of each city, town, and county that has jurisdiction over property proposed to be included in the Heritage Area written notice of the proposed inclusion.

(c) ADMINISTRATION.—The Heritage Area shall be administered in accordance with this subtitle.

SEC. 255. DESIGNATION OF ALLIANCE AS LOCAL COORDINATING ENTITY.

(a) IN GENERAL.—The Board of Directors of the Alliance shall be the local coordinating entity for the Heritage Area.

(b) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE FUNDS.—The local coordinating entity may receive amounts made available to carry out this subtitle.

(2) DISQUALIFICATION.—If a management plan is not submitted to the Secretary as required under section 256 within the time period specified in that section, the local coordinating entity may not receive Federal funding under this subtitle until a management plan is submitted to the Secretary.

(c) USE OF FEDERAL FUNDS.—The local coordinating entity may, for the purposes of developing and implementing the management plan, use Federal funds made available under this subtitle—

(1) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with or provide technical assistance to the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(3) to hire and compensate staff;

(4) to obtain funds from any source under any program or law requiring the recipient of funds to make a contribution in order to receive the funds; and

(5) to contract for goods and services.

(d) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or any interest in real property.

SEC. 256. MANAGEMENT OF THE HERITAGE AREA.

(a) HERITAGE AREA MANAGEMENT PLAN.—

(1) DEVELOPMENT AND SUBMISSION FOR REVIEW.—Not later than 3 years after the date on which funds are made available to carry out the subtitle, the local coordinating entity, with public participation, shall develop and submit for review to the Secretary a management plan for the Heritage Area.

(2) CONTENTS.—The management plan shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area;

(B) take into consideration Federal, State, county, and local plans;

(C) involve residents, public agencies, and private organizations in the Heritage Area;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the Heritage Area;

(E) specify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area; and

(F) include—

(i) an inventory of resources in the Heritage Area that—

(I) includes a list of property in the Heritage Area that should be conserved, restored, managed, developed, or maintained because of the historical, cultural, or natural significance of the property as the property relates to the themes of the Heritage Area; and

(II) does not include any property that is privately owned unless the owner of the property consents in writing to the inclusion;

(ii) a recommendation of policies for resource management that consider the application of appropriate land and water management techniques, including policies for the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the Heritage Area in a manner that is consistent with the support of appropriate and compatible economic viability;

(iii) a program for implementation of the management plan, including plans for restoration and construction;

(iv) a description of any commitments that have been made by persons interested in management of the Heritage Area;

(v) an analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle; and

(vi) an interpretive plan for the Heritage Area.

(3) APPROVAL OR DISAPPROVAL OF THE MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after submission of the management plan by the local coordinating entity, the Secretary shall approve or disapprove the management plan.

(B) DISAPPROVAL AND REVISIONS.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary shall—

(I) advise the local coordinating entity, in writing, of the reasons for the disapproval; and

(II) make recommendations for revision of the management plan.

(ii) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove proposed revisions to the management plan not later than 60 days after receipt of the revisions from the local coordinating entity.

(b) PRIORITIES.—The local coordinating entity shall give priority to the implementation of actions, goals, and policies set forth in the management plan, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations in—

(A) conserving the historical, cultural, and natural resources of the Heritage Area;

(B) establishing and maintaining interpretive exhibits in the Heritage Area;

(C) developing recreational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for the historical, cultural, and natural resources of the Heritage Area;

(E) restoring historic buildings that are—

(i) located within the boundaries of the Heritage Area; and

(ii) related to the theme of the Heritage Area; and

(F) ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means, including encouraging and soliciting the development of heritage products.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse units of government, businesses, private property owners, and nonprofit organizations in the Heritage Area.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least annually regarding the implementation of the management plan.

(e) ANNUAL REPORTS.—For any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes—

(1) the accomplishments of the local coordinating entity;

(2) the expenses and income of the local coordinating entity; and

(3) the entities to which the local coordinating entity made any grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—For any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall—

(1) make available for audit by Congress, the Secretary, and appropriate units of government all records and other information relating to the expenditure of the Federal funds and any matching funds; and

(2) require, with respect to all agreements authorizing expenditure of the Federal funds by other organizations, that the receiving organizations make available for audit all records and other information relating to the expenditure of the Federal funds.

(g) DELEGATION.—

(1) IN GENERAL.—The local coordinating entity may delegate the responsibilities and actions under this subtitle for each area identified in section 254(b)(1).

(2) REVIEW.—All delegated responsibilities and actions are subject to review and approval by the local coordinating entity.

SEC. 257. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and, subject to the availability of appropriations, grants to—

(A) units of government, nonprofit organizations, and other persons, at the request of the local coordinating entity; and

(B) the local coordinating entity, for use in developing and implementing the management plan.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this subtitle, require any recipient of the technical assistance or a grant to enact or modify any land use restriction.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall determine whether a unit of government, nonprofit organization, or other person shall be awarded technical assistance or grants and the amount of technical assistance—

(A) based on the extent to which the assistance—

(i) fulfills the objectives of the management plan; and

(ii) achieves the purposes of this subtitle; and

(B) after giving special consideration to projects that provide a greater leverage of Federal funds.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the public with information concerning the location and character of the Heritage Area.

(c) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations for the purposes of implementing this subtitle.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—A Federal entity conducting any activity directly affecting the Heritage Area shall—

(1) consider the potential effect of the activity on the management plan; and

(2) consult with the local coordinating entity with respect to the activity to minimize the adverse effects of the activity on the Heritage Area.

SEC. 258. NO EFFECT ON LAND USE AUTHORITY AND PRIVATE PROPERTY.

(a) NO EFFECT ON LAND USE AUTHORITY.—Nothing in this subtitle modifies, enlarges, or diminishes any authority of Federal, State, or local government to regulate any use of land under any other law (including regulations).

(b) NO ZONING OR LAND USE POWERS.—Nothing in this subtitle grants powers of zoning or land use control to the local coordinating entity.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this subtitle affects or authorizes the local coordinating entity to interfere with—

(1) the right of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State or a political subdivision of the State.

SEC. 259. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any activity carried out using funds made available under this subtitle shall not exceed 50 percent.

SEC. 260. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle E—Bleeding Kansas National Heritage Area

SEC. 261. SHORT TITLE.

This subtitle may be cited as the ''Bleeding Kansas National Heritage Area Act''.

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Bleeding Kansas National Heritage Area is a cohesive assemblage of natural, historic, cultural, and recreational resources that—

(A) together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use;

(B) are best managed through partnerships between private and public entities; and

(C) will build upon the Kansas rural development policy and the new homestead act to recognize inherent strengths of small towns and rural communities—close-knit communities, strong local business networks, and a tradition of entrepreneurial creativity.

(2) The Bleeding Kansas National Heritage Area reflects traditions, customs, beliefs, folk life, or some combination thereof, that are a valuable part of the heritage of the United States.

(3) The Bleeding Kansas National Heritage Area provides outstanding opportunities to conserve natural, cultural, or historic features, or some combination thereof.

(4) The Bleeding Kansas National Heritage Area provides outstanding recreational and interpretive opportunities.

(5) The Bleeding Kansas National Heritage Area has an identifiable theme, and resources important to the theme retain integrity capable of supporting interpretation.

(6) Residents, nonprofit organizations, other private entities, and units of local government throughout the Bleeding Kansas National Heritage Area demonstrate support for designation of the Bleeding Kansas National Heritage Area as a national heritage area and for management of the Bleeding Kansas National Heritage Area as appropriate for such designation.

(7) Capturing these interconnected stories through partnerships with National Park Service sites, Kansas State Historical Society sites, local organizations, and citizens will augment the story opportunities within the prospective boundary for the educational and recreational benefit of this and future generations of Americans.

(8) Communities throughout this region know the value of their Bleeding Kansas legacy, but require expansion of the existing cooperative framework to achieve key preservation, education, and other significant goals by working more closely together.

(9) The State of Kansas officially recognized the national significance of the Bleeding Kansas story when it designated the heritage area development as a significant strategic goal within the statewide economic development plan.

(10) Territorial Kansas Heritage Alliance is a nonprofit corporation created for the purposes of preserving, interpreting, developing, promoting and, making available to the public the story and resources related to the story of Bleeding Kansas and the Enduring Struggle for Freedom.

(11) Territorial Kansas Heritage Alliance has completed a study that—

(A) describes in detail the role, operation, financing, and functions of Territorial Kansas Heritage Alliance, the local coordinating entity; and

(B) provides adequate assurances that Territorial Kansas Heritage Alliance, the local coordinating entity, is likely to have the financial resources necessary to implement the management plan for the Heritage Area, including resources to meet matching requirement for grants.

(12) There are at least 7 National Historic Landmarks, 32 National Register properties, 3 Kansas Register properties, and 7 properties listed on the National Underground Railroad Network to Freedom that contribute to the Heritage Area as well as other significant properties that have not been designated at this time.

(13) There is an interest in interpreting all sides of the Bleeding Kansas story that requires further work with several counties in Missouri interested in joining the area.

(14) In 2004, the State of Kansas commemorated the Sesquicentennial of the signing of the Kansas-Nebraska Act, opening the territory to settlement.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To designate a region in eastern Kansas and western Missouri containing nationally important natural, historic, and cultural resources and recreational and educational opportunities that are geographically assembled and thematically related as areas that provide unique frameworks for understanding the great and diverse character of the United States and the development of communities and their surroundings as the Bleeding Kansas National Heritage Area.

(2) To strengthen, complement, and support the Fort Scott, Brown v. Board of Education, Nicodemus and Tallgrass Prairie sites through the interpretation and conservation of the associated living landscapes outside of the boundaries of these units of the National Park System.

(3) To describe the extent of Federal responsibilities and duties in regard to the Heritage Area.

(4) To further collaboration and partnerships among Federal, State, and local governments, nonprofit organizations, and the private sector, or combinations thereof, to conserve and manage the resources and opportunities in the Heritage Area through grants, technical assistance, training and other means.

(5) To authorize Federal financial and technical assistance to the local coordinating entity to assist in the conservation and interpretation of the Heritage Area.

(6) To empower communities and organizations in Kansas to preserve the special historic identity of Bleeding Kansas and with it the identity of the Nation.

(7) To provide for the management, preservation, protection, and interpretation of the natural, historical, and cultural resources within the region for the educational and inspirational benefit of current and future generations.

(8) To provide greater community capacity through inter-local cooperation.

(9) To provide a vehicle, particularly in the four counties with high out-migration of population, to recognize that self-reliance and resilience will be the keys to their economic future.

(10) To build upon the Kansas rural development policy, the Kansas agritourism initiative and the new homestead act to recognize inherent strengths of small towns and rural communities—close-knit communities, strong local business networks, and a tradition of entrepreneurial creativity.

(11) To educate and cultivate among its citizens, particularly its youth, the stories and cultural resources of the region's legacy that—

(A) reflect the popular phrase ''Bleeding Kansas'' describing the conflict over slavery that became nationally prominent in Kansas just before and during the American Civil War;

(B) reflect the commitment of American settlers who first fought and killed to uphold their different and irreconcilable principles of freedom and equality during the years of the Kansas Conflict;

(C) reflect the struggle for freedom, experienced during the ''Bleeding Kansas'' era, that continues to be a vital and pressing issue associated with the real problem of democratic nation building; and

(D) recreate the physical environment revealing its impact on agriculture, transportation, trade and business, and social and cultural patterns in urban and rural settings.

(12) To interpret the effect of the era's democratic ethos on the development of America's distinctive political culture.

SEC. 263. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Bleeding Kansas and the Enduring Struggle for Freedom National Heritage Area in eastern Kansas and western Missouri.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means Territorial Kansas Heritage Alliance, recognized by the Secretary, in consultation with the Governors of the States, that agrees to perform the duties of a local coordinating entity under this subtitle.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under section 264(e).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means each of the States of Kansas and Missouri.

(6) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government'' means the government of a State, a political subdivision of a State, or an Indian tribe.

SEC. 264. BLEEDING KANSAS AND THE ENDURING STRUGGLE FOR FREEDOM NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the States the Bleeding Kansas and the Enduring Struggle for Freedom National Heritage Area.

(b) BOUNDARIES.—The Heritage Area may include the following:

(1) An area located in eastern Kansas and western Missouri, consisting of—

(A) Allen, Anderson, Atchison, Bourbon, Chantauqua, Cherokee, Clay, Coffey, Crawford, Douglas, Franklin, Geary, Jackson, Johnson, Labette, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Riley, Shawnee, Wabaunsee, Wilson, Woodson, Wyandotte Counties in Kansas; and

(B) Buchanan, Platte, Clay, Ray, Lafayette, Jackson, Cass, Johnson, Bates, Vernon, Barton, and Jasper Counties in Missouri.

(2) Contributing sites, buildings, and districts within the area that are recommended by the management plan.

(c) MAP.—The final boundary of the Heritage Area within the counties identified in subsection (b)(1) shall be specified in the management plan. A map of the Heritage Area shall be included in the management plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The local coordinating entity for the Heritage Area shall be Territorial Kansas Heritage Alliance, a nonprofit organization established in the State of Kansas, recognized by the Secretary, in consultation with the Governors of the States, that agrees to perform the duties of the local coordinating entity under this subtitle.

(2) AUTHORITIES.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(A) make grants to, and enter into cooperative agreements with, the States, political subdivisions of the States, and private organizations;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and submit to the Secretary a management plan reviewed by participating units of local government within the boundaries of the proposed Heritage Area.

(2) CONTENTS.—The management plan shall—

(A) present a comprehensive program for the conservation, interpretation, funding, management, and development of the Heritage Area, in a manner consistent with the existing local, State, and Federal land use laws and compatible economic viability of the Heritage Area;

(B) establish criteria or standards to measure what is selected for conservation, interpretation, funding, management, and development;

(C) involve residents, public agencies, and private organizations working in the Heritage Area;

(D) specify and coordinate, as of the date of the management plan, existing and potential sources of technical and financial assistance under this and other Federal laws to protect, manage, and develop the Heritage Area; and

(E) include—

(i) actions to be undertaken by units of government and private organizations to protect, conserve, and interpret the resources of the Heritage Area;

(ii) an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that meets the establishing criteria (such as, but not exclusive to, visitor readiness) to merit preservation, restoration, management, development, or maintenance because of its natural, cultural, historical, or recreational significance;

(iii) policies for resource management including the development of intergovernmental cooperative agreements, private sector agreements, or any combination thereof, to protect the historical, cultural, recreational, and natural resources of the Heritage Area in a manner consistent with supporting appropriate and compatible economic viability;

(iv) a program for implementation of the management plan by the designated local coordinating entity, in cooperation with its partners and units of local government;

(v) evidence that relevant State, county, and local plans applicable to the Heritage Area have been taken into consideration;

(vi) an analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this subtitle; and

(vii) a business plan that—

(I) describes in detail the role, operation, financing, and functions of the local coordinating entity for each activity included in the recommendations contained in the management plan; and

(II) provides, to the satisfaction of the Secretary, adequate assurances that the local coordinating entity is likely to have the financial resources necessary to implement the management plan for the Heritage Area, including resources to meet matching requirement for grants awarded under this subtitle.

(3) CONSIDERATIONS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area.

(4) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary within 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall be ineligible to receive additional funding under this subtitle until the date on which the Secretary receives the proposed management plan.

(5) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—The Secretary shall approve or disapprove the proposed management plan submitted under this subtitle not later than 90 days after receiving such proposed management plan.

(6) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed management plan, the Secretary shall advise the local coordinating entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(7) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve substantial amendments to the management plan. Funds appropriated under this subtitle may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

(8) IMPLEMENTATION.—

(A) PRIORITIES.—The local coordinating entity shall give priority to implementing actions described in the mangement plan, including—

(i) assisting units of government and nonprofit organizations in preserving resources within the Heritage Area; and

(ii) encouraging local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the management plan.

(B) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(f) PUBLIC NOTICE.—The local coordinating entity shall place a notice of each of its public meetings in a newspaper of general circulation in the Heritage Area and shall make the minutes of the meeting available to the public.

(g) ANNUAL REPORT.—For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

(h) AUDIT.—The local coordinating entity shall—

(1) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(2) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of the Federal funds and any matching funds.

(i) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this subtitle precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 265. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, and natural resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) SPENDING FOR NON-FEDERAL PROPERTY.—The local coordinating entity may expend Federal funds made available under this subtitle on non-Federal property that—

(A) meets the criteria in the approved management plan; or

(B) is listed or eligible for listing on the National Register of Historic Places.

(4) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal entity conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consider the potential effect of the activity on the purposes of the Heritage Area and the management plan;

(2) consult with the local coordinating entity regarding the activity; and

(3) to the maximum extent practicable, conduct or support the activity to avoid adverse effects on the Heritage Area.

(c) OTHER ASSISTANCE NOT AFFECTED.—This subtitle does not affect the authority of any Federal official to provide technical or financial assistance under any other law.

(d) NOTIFICATION OF OTHER FEDERAL ACTIVITIES.—The head of each Federal agency shall provide to the Secretary and the local

coordinating entity, to the extent practicable, advance notice of all activities that may have an impact on the Heritage Area.

SEC. 266. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREAS.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) LAND USE REGULATION.—

(1) IN GENERAL.—The local coordinating entity shall provide assistance and encouragement to State and local governments, private organizations, and persons to protect and promote the resources and values of the Heritage Area.

(2) EFFECT.—Nothing in this subtitle—

(A) affects the authority of the State or local governments to regulate under law any use of land; or

(B) grants any power of zoning or land use to the local coordinating entity.

(f) PRIVATE PROPERTY.—

(1) IN GENERAL.—The local coordinating entity shall be an advocate for land management practices consistent with the purposes of the Heritage Area.

(2) EFFECT.—Nothing in this subtitle—

(A) abridges the rights of any person with regard to private property;

(B) affects the authority of the State or local government regarding private property; or

(C) imposes any additional burden on any property owner.

(g) REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.—

(1) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be governed by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent for such inclusion to the local coordinating entity.

(2) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Area, and not notified under paragraph (1), shall have their property immediately removed from the boundary by submitting a written request to the local coordinating entity.

SEC. 267. SAVINGS PROVISIONS.

(a) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this subtitle shall be construed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process in the Heritage Area that is different from those that would be applicable if the Heritage Area had not been established.

(b) WATER AND WATER RIGHTS.—Nothing in this subtitle shall be construed to authorize or imply the reservation or appropriation of water or water rights.

(c) NO DIMINISHMENT OF STATE AUTHORITY.—Nothing in this subtitle shall be construed to diminish the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area.

SEC. 268. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 269. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle F—Upper Housatonic Valley National Heritage Area

SEC. 271. SHORT TITLE.

This subtitle may be cited as the ''Upper Housatonic Valley National Heritage Area Act''.

SEC. 272. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places including—

(A) 5 National Historic Landmarks, including—

(i) Edith Wharton's home, The Mount, Lenox, Massachusetts;

(ii) Herman Melville's home, Arrowhead, Pittsfield, Massachusetts;

(iii) W.E.B. DuBois' Boyhood Homesite, Great Barrington, Massachusetts;

(iv) Mission House, Stockbridge, Massachusetts; and

(v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) 4 National Natural Landmarks, including—

(i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;

(ii) Beckley Bog, Norfolk, Connecticut;

(iii) Bingham Bog, Salisbury, Connecticut; and

(iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years, and Mohicans had a formative role in contact with Europeans during the 17th and 18th centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled ''Upper Housatonic Valley National Heritage Area Feasibility Study, 2003''.

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

SEC. 273. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Upper Housatonic Valley National Heritage Area, established by section 274.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 274(d).

(3) MANAGEMENT PLAN.—The term ''Management Plan'' means the management plan for the Heritage Area specified in section 276.

(4) MAP.—The term ''map'' means the map entitled ''Boundary Map Upper Housatonic Valley National Heritage Area'', numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 274. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area, as depicted on the map.

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut;

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge,

Tyringham, Washington, and West Stockbridge in Massachusetts; and

(4) the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) LOCAL COORDINATING ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the local coordinating entity for the Heritage Area.

SEC. 275. AUTHORITIES, PROHIBITIONS, AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 276;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this subtitle, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The local coordinating entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this subtitle to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their political jurisdictions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source, including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) PROHIBITIONS ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

SEC. 276. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical, and cultural resources of the Heritage Area;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;

(5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques including, but not limited to, the development of intergovernmental and interagency cooperative agreements to protect the Heritage Area's natural, historical, cultural, educational, scenic, and recreational resources;

(7) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for ways in which local, State, and Federal programs, including the role of the National Park Service in the Heritage Area, may best be coordinated to further the purposes of this subtitle; and

(9) include an interpretive plan for the Heritage Area.

(b) DEADLINE AND TERMINATION OF FUNDING.—

(1) DEADLINE.—Not later than 3 years after funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the local coordinating entity shall not qualify for Federal funding under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

SEC. 277. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon the request of the local coordinating entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the local coordinating entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan, the Secretary shall approve or disapprove the management plan.

(2) CRITERIA FOR APPROVAL.—In determining the approval of the management plan, the Secretary shall consider whether—

(A) the local coordinating entity is representative of the diverse interests of the Heritage Area including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. Not later than 60 days after the date a proposed revision is submitted, the Secretary shall approve or disapprove the proposed revision.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The local coordinating entity shall not use Federal funds authorized by this subtitle to implement any amendments until the Secretary has approved the amendments.

SEC. 278. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the local coordinating entity with respect to such activities;

(2) cooperate with the Secretary and the local coordinating entity in carrying out the duties of the Federal agency under this subtitle and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and,

(3) to the maximum extent practicable, conduct or support such activities in a manner that the local coordinating entity determines will not have an adverse effect on the Heritage Area.

SEC. 279. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the total cost of any activity assisted under this subtitle shall not be more than 50 percent.

SEC. 280. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle G—Champlain Valley National Heritage Partnership

SEC. 281. SHORT TITLE.

This subtitle may be cited as the ''Champlain Valley National Heritage Partnership Act of 2005''.

SEC. 282. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Champlain Valley and its extensive cultural and natural resources have played a significant role in the history of the United States and the individual States of Vermont and New York;

(2) archaeological evidence indicates that the Champlain Valley has been inhabited by humans since the last retreat of the glaciers, with the Native Americans living in the area at the time of European discovery being primarily of Iroquois and Algonquin descent;

(3) the linked waterways of the Champlain Valley, including the Richelieu River in Canada, played a unique and significant role in the establishment and development of the United States and Canada through several distinct eras, including—

(A) the era of European exploration, during which Samuel de Champlain and other explorers used the waterways as a means of access through the wilderness;

(B) the era of military campaigns, including highly significant military campaigns of the French and Indian War, the American Revolution, and the War of 1812; and

(C) the era of maritime commerce, during which canals boats, schooners, and steamships formed the backbone of commercial transportation for the region;

(4) those unique and significant eras are best described by the theme ''The Making of Nations and Corridors of Commerce'';

(5) the artifacts and structures associated with those eras are unusually well-preserved;

(6) the Champlain Valley is recognized as having one of the richest collections of historical resources in North America;

(7) the history and cultural heritage of the Champlain Valley are shared with Canada and the Province of Quebec;

(8) there are benefits in celebrating and promoting this mutual heritage;

(9) tourism is among the most important industries in the Champlain Valley, and heritage tourism in particular plays a significant role in the economy of the Champlain Valley;

(10) it is important to enhance heritage tourism in the Champlain Valley while ensuring that increased visitation will not impair the historical and cultural resources of the region;

(11) according to the 1999 report of the National Park Service entitled ''Champlain Valley Heritage Corridor Project'', ''the Champlain Valley contains resources and represents a theme 'The Making of Nations and Corridors of Commerce', that is of outstanding importance in U.S. history''; and

(12) it is in the interest of the United States to preserve and interpret the historical and cultural resources of the Champlain Valley for the education and benefit of present and future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York to recognize the importance of the historical, cultural, and recreational resources of the Champlain Valley region to the United States;

(2) to assist the State of Vermont and New York, including units of local government and nongovernmental organizations in the States, in preserving, protecting, and interpreting those resources for the benefit of the people of the United States;

(3) to encourage—

(A) partnerships among State and local governments and nongovernmental organizations in the United States; and

(B) collaboration with Canada and the Province of Quebec to—

(i) interpret and promote the history of the waterways of the Champlain Valley region;

(ii) form stronger bonds between the United States and Canada; and

(iii) promote the international aspects of the Champlain Valley region; and

(4) to provide financial and technical assistance for the purposes described in paragraphs (1) through (3).

SEC. 283. DEFINITIONS.

In this subtitle:

(1) HERITAGE PARTNERSHIP.—The term ''Heritage Partnership'' means the Champlain Valley National Heritage Partnership established by section 284(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Lake Champlain Basin Program.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed under section 284(b)(B)(i).

(4) REGION.—

(A) IN GENERAL.—The term ''region'' means any area or community in 1 of the States in which a physical, cultural, or historical resource that represents the theme is located.

(B) INCLUSIONS.—The term ''region'' includes

(i) the linked navigable waterways of—

(I) Lake Champlain;

(II) Lake George;

(III) the Champlain Canal; and

(IV) the portion of the Upper Hudson River extending south to Saratoga;

(ii) portions of Grand Isle, Franklin, Chittenden, Addison, Rutland, and Bennington Counties in the State of Vermont; and

(iii) portions of Clinton, Essex, Warren, Saratoga and Washington Counties in the State of New York.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—the term ''State'' means—

(A) the State of Vermont; and

(B) the State of New York.

(7) THEME.—The term ''theme'' means the theme ''The Making of Nations and Corridors of Commerce'', as the term is used in the 1999 report of the National Park Service entitled ''Champlain Valley Heritage Corridor Project'', that describes the periods of international conflict and maritime commerce during which the region played a unique and significant role in the development of the United States and Canada.

SEC. 284. HERITAGE PARTNERSHIP.

(a) ESTABLISHMENT.—There is established in the region the Champlain Valley National Heritage Partnership.

(b) LOCAL COORDINATING ENTITY.—

(1) DUTIES.—

(A) IN GENERAL.—The local coordinating entity shall implement the subtitle.

(B) MANAGEMENT PLAN.—

(i) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Partnership.

(ii) EXISTING PLAN.—Pending the completion and approval of the management plan, the local coordinating entity may implement the provisions of this subtitle based on its federally authorized plan ''Opportunities for Action, an Evolving Plan For Lake Champlain''.

(iii) CONTENTS.—The management plan shall include—

(I) recommendations for funding, managing, and developing the Heritage Partnership;

(II) a description of activities to be carried out by public and private organizations to protect the resources of the Heritage Partnership;

(III) a list of specific, potential sources of funding for the protection, management, and development of the Heritage Partnership;

(IV) an assessment of the organizational capacity of the local coordinating entity to achieve the goals for implementation; and

(V) recommendations of ways in which to encourage collaboration with Canada and the Province of Quebec in implementing this title.

(iv) CONSIDERATIONS.—In developing the management plan under clause (i), the local coordinating entity shall take into consideration existing Federal, State, and local plans relating to the region.

(v) SUBMISSION TO SECRETARY FOR APPROVAL.—

(I) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(II) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in subclause (I), the Secretary shall not provide any additional funding under this subtitle until a management plan for the Heritage Partnership is submitted to the Secretary.

(vi) APPROVAL.—Not later than 90 days after receiving the management plan submitted under clause (v)(I), the Secretary, in consultation with the States, shall approve or disapprove the management plan.

(vii) ACTION FOLLOWING DISAPPROVAL.—

(I) GENERAL.—If the Secretary disapproves a management plan under clause (vi), the Secretary shall—

(aa) advise the local coordinating entity in writing of the reasons for the disapproval;

(bb) make recommendations for revisions to the management plan; and

(cc) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(II) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subclause (I)(cc), the Secretary shall approve or disapprove the revision.

(viii) AMENDMENT.—

(I) IN GENERAL.—After approval by the Secretary of the management plan, the local coordinating entity shall periodically—

(aa) review the management plan; and

(bb) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any amendments to the management plan that the local coordinating entity considers to be appropriate.

(II) EXPENDITURE OF FUNDS.—No funds made available under this title shall be used to implement any amendment proposed by

the local coordinating entity under subclause (I)(bb) until the Secretary approves the amendments.

(2) PARTNERSHIPS.—

(A) IN GENERAL.—In carrying out this subtitle, the local coordinating entity may enter into partnerships with—

(i) the States, including units of local governments in the States;

(ii) nongovernmental organizations;

(iii) Indian tribes; and

(iv) other persons in the Heritage Partnership.

(B) GRANTS.—Subject to the availability of funds, the local coordinating entity may provide grants to partners under subparagraph (A) to assist in implementing this subtitle.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(c) ASSISTANCE FROM SECRETARY.—To carry out the purposes of this subtitle, the Secretary may provide technical and financial assistance to the local coordinating entity.

SEC. 285. EFFECT.

Nothing in this subtitle—

(1) grants powers of zoning or land use to the local coordinating entity;

(2) modifies, enlarges, or diminishes the authority of the Federal Government or a State or local government to manage or regulate any use of land under any law (including regulations); or

(3) obstructs or limits private business development activities or resource development activities.

SEC. 286. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title not more than a total of $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) NON-FEDERAL SHARE.—The Federal share of the total cost of any activity assisted under this subtitle shall not be more than 50 percent.

SEC. 287. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle H—Great Basin National Heritage Route

SEC. 291. SHORT TITLE.

This subtitle may be cited as the ''Great Basin National Heritage Route Act''.

SEC. 291A. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the natural, cultural, and historic heritage of the North American Great Basin is nationally significant;

(2) communities along the Great Basin Heritage Route (including the towns of Delta, Utah, Ely, Nevada, and the surrounding communities) are located in a classic western landscape that contains long natural vistas, isolated high desert valleys, mountain ranges, ranches, mines, historic railroads, archaeological sites, and tribal communities;

(3) the Native American, pioneer, ranching, mining, timber, and railroad heritages associated with the Great Basin Heritage Route include the social history and living cultural traditions of a rich diversity of nationalities;

(4) the pioneer, Mormon, and other religious settlements, and ranching, timber, and mining activities of the region played and continue to play a significant role in the development of the United States, shaped by—

(A) the unique geography of the Great Basin;

(B) an influx of people of Greek, Chinese, Basque, Serb, Croat, Italian, and Hispanic descent; and

(C) a Native American presence (Western Shoshone, Northern and Southern Paiute, and Goshute) that continues in the Great Basin today;

(5) the Great Basin housed internment camps for Japanese-American citizens during World War II, 1 of which, Topaz, was located along the Heritage Route;

(6) the pioneer heritage of the Heritage Route includes the Pony Express route and stations, the Overland Stage, and many examples of 19th century exploration of the western United States;

(7) the Native American heritage of the Heritage Route dates back thousands of years and includes—

(A) archaeological sites;

(B) petroglyphs and pictographs;

(C) the westernmost village of the Fremont culture; and

(D) communities of Western Shoshone, Paiute, and Goshute tribes;

(8) the Heritage Route contains multiple biologically diverse ecological communities that are home to exceptional species such as—

(A) bristlecone pines, the oldest living trees in the world;

(B) wildlife adapted to harsh desert conditions;

(C) unique plant communities, lakes, and streams; and

(D) native Bonneville cutthroat trout;

(9) the air and water quality of the Heritage Route is among the best in the United States, and the clear air permits outstanding viewing of the night skies;

(10) the Heritage Route includes unique and outstanding geologic features such as numerous limestone caves, classic basin and range topography with playa lakes, alluvial fans, volcanics, cold and hot springs, and recognizable features of ancient Lake Bonneville;

(11) the Heritage Route includes an unusual variety of open space and recreational and educational opportunities because of the great quantity of ranching activity and public land (including city, county, and State parks, national forests, Bureau of Land Management land, and a national park);

(12) there are significant archaeological, historical, cultural, natural, scenic, and recreational resources in the Great Basin to merit the involvement of the Federal Government in the development, in cooperation with the Great Basin Heritage Route Partnership and other local and governmental entities, of programs and projects to—

(A) adequately conserve, protect, and interpret the heritage of the Great Basin for present and future generations; and

(B) provide opportunities in the Great Basin for education; and

(13) the Great Basin Heritage Route Partnership shall serve as the local coordinating entity for a Heritage Route established in the Great Basin.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to foster a close working relationship with all levels of government, the private sector, and the local communities within White Pine County, Nevada, Millard County, Utah, and the Duckwater Shoshone Reservation;

(2) to enable communities referred to in paragraph (1) to conserve their heritage while continuing to develop economic opportunities; and

(3) to conserve, interpret, and develop the archaeological, historical, cultural, natural, scenic, and recreational resources related to the unique ranching, industrial, and cultural heritage of the Great Basin, in a manner that promotes multiple uses permitted as of the date of enactment of this Act, without managing or regulating land use.

SEC. 291B. DEFINITIONS.

In this subtitle:

(1) GREAT BASIN.—The term ''Great Basin'' means the North American Great Basin.

(2) HERITAGE ROUTE.—The term ''Heritage Route'' means the Great Basin National Heritage Route established by section 291C(a).

(3) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Great Basin Heritage Route Partnership established by section 291C(c).

(4) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the local coordinating entity under section 291E(a).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 291C. GREAT BASIN NATIONAL HERITAGE ROUTE.

(a) ESTABLISHMENT.—There is established the Great Basin National Heritage Route to provide the public with access to certain historical, cultural, natural, scenic, and recreational resources in White Pine County, Nevada, Millard County, Utah, and the Duckwater Shoshone Reservation in the State of Nevada, as designated by the local coordinating entity.

(b) BOUNDARIES.—The local coordinating entity shall determine the specific boundaries of the Heritage Route.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The Great Basin Heritage Route Partnership shall serve as the local coordinating entity for the Heritage Route.

(2) BOARD OF DIRECTORS.—The Great Basin Heritage Route Partnership shall be governed by a board of directors that consists of—

(A) 4 members who are appointed by the Board of County Commissioners for Millard County, Utah;

(B) 4 members who are appointed by the Board of County Commissioners for White Pine County, Nevada; and

(C) a representative appointed by each Native American Tribe participating in the Heritage Route.

SEC. 291D. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—In carrying out this subtitle, the Secretary, in consultation with the Governors of the States of Nevada and Utah and the tribal government of each Indian tribe participating in the Heritage Route, shall enter into a memorandum of understanding with the local coordinating entity.

(b) INCLUSIONS.—The memorandum of understanding shall include information relating to the objectives and management of the Heritage Route, including—

(1) a description of the resources of the Heritage Route;

(2) a discussion of the goals and objectives of the Heritage Route, including—

(A) an explanation of the proposed approach to conservation, development, and interpretation; and

(B) a general outline of the anticipated protection and development measures;

(3) a description of the local coordinating entity;

(4) a list and statement of the financial commitment of the initial partners to be involved in developing and implementing the management plan; and

(5) a description of the role of the States of Nevada and Utah in the management of the Heritage Route.

(c) ADDITIONAL REQUIREMENTS.—In developing the terms of the memorandum of understanding, the Secretary and the local coordinating entity shall—

(1) provide opportunities for local participation; and

(2) include terms that ensure, to the maximum extent practicable, timely implementation of all aspects of the memorandum of understanding.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review any amendments of the memorandum of understanding proposed by the local coordinating entity or the Governor of the State of Nevada or Utah.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended to implement a change made by a proposed amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 291E. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and submit to the Secretary for approval a management plan for the Heritage Route that—

(1) specifies—

(A) any resources designated by the local coordinating entity under section 291C(a); and

(B) the specific boundaries of the Heritage Route, as determined under section 291C(b); and

(2) presents clear and comprehensive recommendations for the conservation, funding, management, and development of the Heritage Route.

(b) CONSIDERATIONS.—In developing the management plan, the local coordinating entity shall—

(1) provide for the participation of local residents, public agencies, and private organizations located within the counties of Millard County, Utah, White Pine County, Nevada, and the Duckwater Shoshone Reservation in the protection and development of resources of the Heritage Route, taking into consideration State, tribal, county, and local land use plans in existence on the date of enactment of this Act;

(2) identify sources of funding;

(3) include—

(A) a program for implementation of the management plan by the local coordinating entity, including—

(i) plans for restoration, stabilization, rehabilitation, and construction of public or tribal property; and

(ii) specific commitments by the identified partners referred to in section 291D(b)(4) for the first 5 years of operation; and

(B) an interpretation plan for the Heritage Route; and

(4) develop a management plan that will not infringe on private property rights without the consent of the owner of the private property.

(c) FAILURE TO SUBMIT.—If the local coordinating entity fails to submit a management plan to the Secretary in accordance with subsection (a), the Heritage Route shall no longer qualify for Federal funding.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receipt of a management plan under subsection (a), the Secretary, in consultation with the Governors of the States of Nevada and Utah, shall approve or disapprove the management plan.

(2) CRITERIA.—In determining whether to approve a management plan, the Secretary shall consider whether the management plan—

(A) has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments associated with the Heritage Route;

(B) is consistent with and complements continued economic activity along the Heritage Route;

(C) has a high potential for effective partnership mechanisms;

(D) avoids infringing on private property rights; and

(E) provides methods to take appropriate action to ensure that private property rights are observed.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 90 days after the receipt of any proposed revision of the management plan from the local coordinating entity, approve or disapprove the proposed revision.

(e) IMPLEMENTATION.—On approval of the management plan as provided in subsection (d)(1), the local coordinating entity, in conjunction with the Secretary, shall take appropriate steps to implement the management plan.

(f) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 291F. AUTHORITY AND DUTIES OF LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—The local coordinating entity may, for purposes of preparing and implementing the management plan, use funds made available under this subtitle to—

(1) make grants to, and enter into cooperative agreements with, a State (including a political subdivision), an Indian tribe, a private organization, or any person; and

(2) hire and compensate staff.

(b) DUTIES.—In addition to developing the management plan, the local coordinating entity shall—

(1) give priority to implementing the memorandum of understanding and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in—

(i) establishing and maintaining interpretive exhibits along the Heritage Route;

(ii) developing recreational resources along the Heritage Route;

(iii) increasing public awareness of and appreciation for the archaeological, historical, cultural, natural, scenic, and recreational resources and sites along the Heritage Route; and

(iv) if requested by the owner, restoring, stabilizing, or rehabilitating any private, public, or tribal historical building relating to the themes of the Heritage Route;

(B) encourage economic viability and diversity along the Heritage Route in accordance with the objectives of the management plan; and

(C) encourage the installation of clear, consistent, and environmentally appropriate signage identifying access points and sites of interest along the Heritage Route;

(2) consider the interests of diverse governmental, business, and nonprofit groups associated with the Heritage Route;

(3) conduct public meetings in the region of the Heritage Route at least semiannually regarding the implementation of the management plan;

(4) submit substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for approval by the Secretary; and

(5) for any year for which Federal funds are received under this subtitle—

(A) submit to the Secretary a report that describes, for the year—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) each entity to which any loan or grant was made;

(B) make available for audit all records pertaining to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing the expenditure of Federal funds by any entity, that the receiving entity make available for audit all records pertaining to the expenditure of the funds.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(d) PROHIBITION ON THE REGULATION OF LAND USE.—The local coordinating entity shall not regulate land use within the Heritage Route.

SEC. 291G. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may, on request of the local coordinating entity, provide technical and financial assistance to develop and implement the management plan and memorandum of understanding.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall, on request of the local coordinating entity, give priority to actions that assist in—

(A) conserving the significant archaeological, historical, cultural, natural, scenic, and recreational resources of the Heritage Route; and

(B) providing education, interpretive, and recreational opportunities, and other uses consistent with those resources.

(b) APPLICATION OF FEDERAL LAW.—The establishment of the Heritage Route shall have no effect on the application of any Federal law to any property within the Heritage Route.

SEC. 291H. LAND USE REGULATION; APPLICABILITY OF FEDERAL LAW.

(a) LAND USE REGULATION.—Nothing in this subtitle—

(1) modifies, enlarges, or diminishes any authority of the Federal, State, tribal, or local government to regulate by law (including by regulation) any use of land; or

(2) grants any power of zoning or land use to the local coordinating entity.

(b) APPLICABILITY OF FEDERAL LAW.—Nothing in this subtitle—

(1) imposes on the Heritage Route, as a result of the designation of the Heritage Route, any regulation that is not applicable to the area within the Heritage Route as of the date of enactment of this Act; or

(2) authorizes any agency to promulgate a regulation that applies to the Heritage Route solely as a result of the designation of the Heritage Route under this subtitle.

SEC. 291I. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of any activity assisted under this subtitle shall not exceed 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share may be in the form of in-kind

contributions, donations, grants, and loans from individuals and State or local governments or agencies.

SEC. 291J. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle I—Gullah/Geechee Heritage Corridor

SEC. 295. SHORT TITLE.

This subtitle may be cited as the ''Gullah/Geechee Cultural Heritage Act''.

SEC. 295A. PURPOSES.

The purposes of this subtitle are to—

(1) recognize the important contributions made to American culture and history by African Americans known as the Gullah/Geechee who settled in the coastal counties of South Carolina, Georgia, North Carolina, and Florida;

(2) assist State and local governments and public and private entities in South Carolina, Georgia, North Carolina, and Florida in interpreting the story of the Gullah/Geechee and preserving Gullah/Geechee folklore, arts, crafts, and music; and

(3) assist in identifying and preserving sites, historical data, artifacts, and objects associated with the Gullah/Geechee for the benefit and education of the public.

SEC. 295B. DEFINITIONS.

In this subtitle:

(1) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Gullah/Geechee Cultural Heritage Corridor Commission established by section 295D(a).

(2) HERITAGE CORRIDOR.—The term ''Heritage Corridor'' means the Gullah/Geechee Cultural Heritage Corridor established by section 295C(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 295C. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established the Gullah/Geechee Cultural Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Corridor shall be comprised of those lands and waters generally depicted on a map entitled ''Gullah/Geechee Cultural Heritage Corridor'' numbered GGCHC 80,000 and dated September 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and in an appropriate State office in each of the States included in the Heritage Corridor. The Secretary shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act, a detailed description and map of the boundaries established under this subsection.

(2) REVISIONS.—The boundaries of the Heritage Corridor may be revised if the revision is—

(A) proposed in the management plan developed for the Heritage Corridor;

(B) approved by the Secretary in accordance with this subtitle; and

(C) placed on file in accordance with paragraph (1).

(c) ADMINISTRATION.—The Heritage Corridor shall be administered in accordance with the provisions of this subtitle.

SEC. 295D. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a local coordinating entity to be known as the ''Gullah/Geechee Cultural Heritage Corridor Commission'' whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of a management plan for those land and waters specified in section 295C(b).

(b) MEMBERSHIP.—The local coordinating entity shall be composed of 15 members appointed by the Secretary as follows:

(1) Four individuals nominated by the State Historic Preservation Officer of South Carolina and two individuals each nominated by the State Historic Preservation Officer of each of Georgia, North Carolina, and Florida and appointed by the Secretary.

(2) Two individuals from South Carolina and one individual from each of Georgia, North Carolina, and Florida who are recognized experts in historic preservation, anthropology, and folklore, appointed by the Secretary.

(c) TERMS.—Members of the local coordinating entity shall be appointed to terms not to exceed 3 years. The Secretary may stagger the terms of the initial appointments to the local coordinating entity in order to assure continuity of operation. Any member of the local coordinating entity may serve after the expiration of their term until a successor is appointed. A vacancy shall be filled in the same manner in which the original appointment was made.

(d) TERMINATION.—The local coordinating entity shall terminate 10 years after the date of enactment of this Act.

SEC. 295E. OPERATION OF THE LOCAL COORDINATING ENTITY.

(a) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Corridor, the local coordinating entity shall—

(1) prepare and submit a management plan to the Secretary in accordance with section 295F;

(2) assist units of local government and other persons in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Corridor;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Corridor;

(C) developing recreational and educational opportunities in the Heritage Corridor;

(D) increasing public awareness of and appreciation for the historical, cultural, natural, and scenic resources of the Heritage Corridor;

(E) protecting and restoring historic sites and buildings in the Heritage Corridor that are consistent with Heritage Corridor themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Corridor; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Corridor;

(3) consider the interests of diverse units of government, business, organizations, and individuals in the Heritage Corridor in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, setting forth its accomplishments, expenses, and income, including grants made to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this subtitle, all information pertaining to the expenditure of such funds and any matching funds, and require all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organization make available for audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Corridor.

(b) AUTHORITIES.—The local coordinating entity may, for the purposes of preparing and implementing the management plan, use funds made available under this subtitle to—

(1) make grants to, and enter into cooperative agreements with, the States of South Carolina, North Carolina, Florida, and Georgia, political subdivisions of those States, a nonprofit organization, or any person;

(2) hire and compensate staff;

(3) obtain funds from any source including any that are provided under any other Federal law or program; and

(4) contract for goods and services.

SEC. 295F. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Corridor shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Corridor;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the historical, cultural, and natural resources of the Heritage Corridor;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Corridor in the first 5 years of implementation;

(5) include an inventory of the historical, cultural, natural, resources of the Heritage Corridor related to the themes of the Heritage Corridor that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the Heritage Corridor's historical, cultural, and natural resources;

(7) describe a program for implementation of the management plan including plans for resources protection, restoration, construction, and specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for the ways in which Federal, State, or local programs may best be coordinated to further the purposes of this subtitle; and

(9) include an interpretive plan for the Heritage Corridor.

(b) SUBMITTAL OF MANAGEMENT PLAN.—The local coordinating entity shall submit the management plan to the Secretary for approval not later than 3 years after funds are made available for this subtitle.

(c) FAILURE TO SUBMIT.—If the local coordinating entity fails to submit the management plan to the Secretary in accordance with subsection (b), the Heritage Corridor shall not qualify for Federal funding until the management plan is submitted.

(d) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(B) the resource preservation and interpretation strategies contained in the management plan would adequately protect the cultural and historic resources of the Heritage Corridor; and

(C) the Secretary has received adequate assurances from appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision not later than 60 days after the date it is submitted.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed and approved by the Secretary in the same manner as provided in the original management plan. The local coordinating entity shall not use Federal funds authorized by this subtitle to implement any amendments until the Secretary has approved the amendments.

SEC. 295G. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Upon a request of the local coordinating entity, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(b) PRIORITY FOR ASSISTANCE.—In providing assistance under subsection (a), the Secretary shall give priority to actions that assist in—

(1) conserving the significant cultural, historical, and natural resources of the Heritage Corridor; and

(2) providing educational and interpretive opportunities consistent with the purposes of the Heritage Corridor.

(c) SPENDING FOR NON-FEDERAL PROPERTY.—

(1) IN GENERAL.—The local coordinating entity may expend Federal funds made available under this subtitle on nonfederally owned property that is—

(A) identified in the management plan; or

(B) listed or eligible for listing on the National Register for Historic Places.

(2) AGREEMENTS.—Any payment of Federal funds made pursuant to this subtitle shall be subject to an agreement that conversion, use, or disposal of a project so assisted for purposes contrary to the purposes of this subtitle, as determined by the Secretary, shall result in a right of the United States to compensation of all funds made available to that project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 295H. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Corridor shall—

(1) consult with the Secretary and the local coordinating entity with respect to such activities;

(2) cooperate with the Secretary and the local coordinating entity in carrying out their duties under this subtitle and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner in which the local coordinating entity determines will not have an adverse effect on the Heritage Corridor.

SEC. 295I. COASTAL HERITAGE CENTERS.

In furtherance of the purposes of this subtitle and using the authorities made available under this subtitle, the local coordinating entity shall establish one or more Coastal Heritage Centers at appropriate locations within the Heritage Corridor in accordance with the preferred alternative identified in the Record of Decision for the Low Country Gullah Culture Special Resource Study and Environmental Impact Study, December 2003, and additional appropriate sites.

SEC. 295J. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the Heritage Corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE CORRIDOR.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Corridor to participate in or be associated with the Heritage Corridor.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Corridor represent the area within which Federal funds appropriated for the purpose of this subtitle shall be expended. The establishment of the Heritage Corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Corridor or its viewshed by the Secretary or the local coordinating entity.

(f) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Corridor until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent for such preservation, conservation, or promotion to the local coordinating entity.

(g) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Corridor shall have their property immediately removed from within the boundary by submitting a written request to the local coordinating entity.

SEC. 295K. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Corridor under this subtitle.

(b) COST SHARE.—Federal funding provided under this subtitle may not exceed 50 percent of the total cost of any activity for which assistance is provided under this subtitle.

(c) IN-KIND CONTRIBUTIONS.—The Secretary may accept in-kind contributions as part of the non-Federal cost share of any activity for which assistance is provided under this subtitle.

SEC. 295L. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle J—Crossroads of the American Revolution National Heritage Area

SEC. 297. SHORT TITLE.

This subtitle may be cited as the ''Crossroads of the American Revolution National Heritage Area Act of 2005''.

SEC. 297A. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the State of New Jersey was critically important during the American Revolution because of the strategic location of the State between the British armies headquartered in New York City, New York, and the Continental Congress in the city of Philadelphia, Pennsylvania;

(2) General George Washington spent almost half of the period of the American Revolution personally commanding troops of the Continental Army in the State of New Jersey, including 2 severe winters spent in encampments in the area that is now Morristown National Historical Park, a unit of the National Park System;

(3) it was during the 10 crucial days of the American Revolution between December 25, 1776, and January 3, 1777, that General Washington, after retreating across the State of New Jersey from the State of New York to the Commonwealth of Pennsylvania in the face of total defeat, recrossed the Delaware River on the night of December 25, 1776, and went on to win crucial battles at Trenton and Princeton in the State of New Jersey;

(4) Thomas Paine, who accompanied the troops during the retreat, described the events during those days as ''the times that try men's souls'';

(5) the sites of 296 military engagements are located in the State of New Jersey, including—

(A) several important battles of the American Revolution that were significant to—

(i) the outcome of the American Revolution; and

(ii) the history of the United States; and

(B) several national historic landmarks, including Washington's Crossing, the Old Trenton Barracks, and Princeton, Monmouth, and Red Bank Battlefields;

(6) additional national historic landmarks in the State of New Jersey include the homes of—

(A) Richard Stockton, Joseph Hewes, John Witherspoon, and Francis Hopkinson, signers of the Declaration of Independence;

(B) Elias Boudinout, President of the Continental Congress; and

(C) William Livingston, patriot and Governor of the State of New Jersey from 1776 to 1790;

(7) portions of the landscapes important to the strategies of the British and Continental armies, including waterways, mountains, farms, wetlands, villages, and roadways—

(A) retain the integrity of the period of the American Revolution; and

(B) offer outstanding opportunities for conservation, education, and recreation;

(8) the National Register of Historic Places lists 251 buildings and sites in the National Park Service study area for the Crossroads of the American Revolution that are associated with the period of the American Revolution;

(9) civilian populations residing in the State of New Jersey during the American Revolution suffered extreme hardships because of—

(A) the continuous conflict in the State;

(B) foraging armies; and

(C) marauding contingents of loyalist Tories and rebel sympathizers;

(10) because of the important role that the State of New Jersey played in the successful outcome of the American Revolution, there is a Federal interest in developing a regional framework to assist the State of New Jersey, local governments and organizations, and private citizens in—

(A) preserving and protecting cultural, historic, and natural resources of the period; and

(B) bringing recognition to those resources for the educational and recreational benefit of the present and future generations of citizens of the United States; and

(11) the National Park Service has conducted a national heritage area feasibility study in the State of New Jersey that demonstrates that there is a sufficient assemblage of nationally distinctive cultural, historic, and natural resources necessary to establish the Crossroads of the American Revolution National Heritage Area.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to assist communities, organizations, and citizens in the State of New Jersey in preserving—

(A) the special historic identity of the State; and

(B) the importance of the State to the United States;

(2) to foster a close working relationship among all levels of government, the private sector, and local communities in the State;

(3) to provide for the management, preservation, protection, and interpretation of the cultural, historic, and natural resources of the State for the educational and inspirational benefit of future generations;

(4) to strengthen the value of Morristown National Historical Park as an asset to the State by—

(A) establishing a network of related historic resources, protected landscapes, educational opportunities, and events depicting the landscape of the State of New Jersey during the American Revolution; and

(B) establishing partnerships between Morristown National Historical Park and other public and privately owned resources in the Heritage Area that represent the strategic fulcrum of the American Revolution; and

(5) to authorize Federal financial and technical assistance for the purposes described in paragraphs (1) through (4).

SEC. 297B. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Crossroads of the American Revolution National Heritage Area established by section 297C(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 297C(d).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under section 297D.

(4) MAP.—The term ''map'' means the map entitled ''Crossroads of the American Revolution National Heritage Area'', numbered CRRE/80,000, and dated April 2002.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of New Jersey.

SEC. 297C. CROSSROADS OF THE AMERICAN REVOLUTION NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Crossroads of the American Revolution National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Crossroads of the American Revolution Association, Inc., a nonprofit corporation in the State, shall be the local coordinating entity for the Heritage Area.

SEC. 297D. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and forward to the Secretary a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) describe actions that units of local government, private organizations, and individuals have agreed to take to protect the cultural, historic, and natural resources of the Heritage Area;

(4) identify existing and potential sources of funding for the protection, management, and development of the Heritage Area during the first 5 years of implementation of the management plan; and

(5) include—

(A) an inventory of the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area relating to the themes of the Heritage Area that should be restored, managed, or developed;

(B) recommendations of policies and strategies for resource management that result in—

(i) application of appropriate land and water management techniques; and

(ii) development of intergovernmental and interagency cooperative agreements to protect the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area;

(C) a program of implementation of the management plan that includes for the first 5 years of implementation—

(i) plans for resource protection, restoration, construction; and

(ii) specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual;

(D) an analysis of and recommendations for ways in which Federal, State, and local programs, including programs of the National Park Service, may be best coordinated to promote the purposes of this subtitle; and

(E) an interpretive plan for the Heritage Area.

(c) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Board of Directors of the local coordinating entity is representative of the diverse interests of the Heritage Area, including—

(i) governments;

(ii) natural and historic resource protection organizations;

(iii) educational institutions;

(iv) businesses; and

(v) recreational organizations;

(B) the local coordinating entity provided adequate opportunity for public and governmental involvement in the preparation of the management plan, including public hearings;

(C) the resource protection and interpretation strategies in the management plan would adequately protect the cultural, historic, and natural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 60 days after the receipt of any proposed revision of the management plan from the local coordinating entity, approve or disapprove the proposed revision.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended by the local coordinating entity to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

(e) IMPLEMENTATION.—On completion of the 3-year period described in subsection (a), any funding made available under this subtitle shall be made available to the local coordinating entity only for implementation of the approved management plan.

SEC. 297E. AUTHORITIES, DUTIES, AND PROHIBITIONS APPLICABLE TO THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For purposes of preparing and implementing the management plan, the local coordinating entity may use funds made available under this subtitle to—

(1) make grants to, provide technical assistance to, and enter into cooperative agreements with, the State (including a political subdivision), a nonprofit organization, or any other person;

(2) hire and compensate staff, including individuals with expertise in—

(A) cultural, historic, or natural resource protection; or

(B) heritage programming;

(3) obtain funds or services from any source (including a Federal law or program);

(4) contract for goods or services; and

(5) support any other activity—

(A) that furthers the purposes of the Heritage Area; and

(B) that is consistent with the management plan.

(b) DUTIES.—In addition to developing the management plan, the local coordinating entity shall—

(1) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for cultural, historic, and natural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are installed throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(2) in preparing and implementing the management plan, consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area;

(3) conduct public meetings at least semiannually regarding the development and implementation of the management plan;

(4) for any fiscal year for which Federal funds are received under this subtitle—

(A) submit to the Secretary a report that describes for the year—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) each entity to which a grant was made;

(B) make available for audit all information relating to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing expenditures of Federal funds by any entity, that the receiving entity make available for audit all records and other information relating to the expenditure of the funds;

(5) encourage, by appropriate means, economic viability that is consistent with the purposes of the Heritage Area; and

(6) maintain headquarters for the local coordinating entity at Morristown National Historical Park and in Mercer County.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—

(1) FEDERAL FUNDS.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(2) OTHER FUNDS.—Notwithstanding paragraph (1), the local coordinating entity may acquire real property or an interest in real property using any other source of funding, including other Federal funding.

SEC. 297F. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the Heritage Area for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, natural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Morristown National Historical Park may, on request, provide to public and private organizations in the Heritage Area, including the local coordinating entity, any operational assistance that is appropriate for the purpose of supporting the implementation of the management plan.

(4) PRESERVATION OF HISTORIC PROPERTIES.—To carry out the purposes of this subtitle, the Secretary may provide assistance to a State or local government or nonprofit organization to provide for the appropriate treatment of—

(A) historic objects; or

(B) structures that are listed or eligible for listing on the National Register of Historic Places.

(5) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consult with the Secretary and the local coordinating entity regarding the activity;

(2)(A) cooperate with the Secretary and the local coordinating entity in carrying out the of the Federal agency under this subtitle; and

(B) to the maximum extent practicable, coordinate the activity with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct the activity to avoid adverse effects on the Heritage Area.

SEC. 297G. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 297H. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

TITLE III—NATIONAL HERITAGE AREA STUDIES

Subtitle A—Western Reserve Heritage Area Study

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''Western Reserve Heritage Areas Study Act''.

SEC. 302. NATIONAL PARK SERVICE STUDY REGARDING THE WESTERN RESERVE, OHIO.

(a) FINDINGS.—The Congress finds the following:

(1) The area that encompasses the modern-day counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio with the rich history in what was once the Western Reserve, has made a unique contribution to the cultural, political, and industrial development of the United States.

(2) The Western Reserve is distinctive as the land settled by the people of Connecticut after the Revolutionary War. The Western Reserve holds a unique mark as the original wilderness land of the West that many settlers migrated to in order to begin life outside of the original 13 colonies.

(3) The Western Reserve played a significant role in providing land to the people of Connecticut whose property and land was destroyed during the Revolution. These settlers were descendants of the brave immigrants who came to the Americas in the 17th century.

(4) The Western Reserve offered a new destination for those who moved west in search of land and prosperity. The agricultural and industrial base that began in the Western Reserve still lives strong in these prosperous and historical counties.

(5) The heritage of the Western Reserve remains transfixed in the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio. The people of these counties are proud of their heritage as shown through the unwavering attempts to preserve agricultural land and the industrial foundation that has been embedded in this region since the establishment of the Western Reserve. Throughout these counties, historical sites, and markers preserve the unique traditions and customs of its original heritage.

(6) The counties that encompass the Western Reserve continue to maintain a strong connection to its historic past as seen through its preservation of its local heritage, including historic homes, buildings, and centers of public gatherings.

(7) There is a need for assistance for the preservation and promotion of the significance of the Western Reserve as the natural, historic and cultural heritage of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa and Ashland in Ohio.

(8) The Department of the Interior is responsible for protecting the Nation's cultural and historical resources. There are significant examples of such resources within these counties and what was once the Western Reserve to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the State of Ohio and other local governmental entities, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, acting through the National Park Service Rivers, Trails, and Conservation Assistance Program, Midwest Region, and in consultation with the State of Ohio, the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland, and other appropriate organizations, shall carry out a study regarding the suitability and feasibility of establishing the Western Reserve Heritage Area in these counties in Ohio.

(2) CONTENTS.—The study shall include analysis and documentation regarding whether the Study Area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the Study Area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government,

and have demonstrated support for the concept of a national heritage area;

(G) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity;

(H) has a conceptual boundary map that is supported by the public; and

(I) has potential or actual impact on private property located within or abutting the Study Area.

(c) BOUNDARIES OF THE STUDY AREA.—The Study Area shall be comprised of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio.

Subtitle B—St. Croix National Heritage Area Study

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''St. Croix National Heritage Area Study Act''.

SEC. 312. STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the island of St. Croix as the St. Croix National Heritage Area. The study shall include analysis, documentation, and determination regarding whether the island of St. Croix—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the island of St. Croix that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(b) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available for this section, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

(c) PRIVATE PROPERTY.—In conducting the study required by this section, the Secretary of the Interior shall analyze the potential impact that designation of the area as a national heritage area is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted.

Subtitle C—Southern Campaign of the Revolution

SEC. 321. SHORT TITLE.

This subtitle may be cited as the ''Southern Campaign of the Revolution Heritage Area Study Act''.

SEC. 322. SOUTHERN CAMPAIGN OF THE REVOLUTION HERITAGE AREA STUDY.

(a) STUDY.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, the South Carolina Department of Parks, Recreation, and Tourism, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the study area described in subsection (b) as the Southern Campaign of the Revolution Heritage Area. The study shall include analysis, documentation, and determination regarding whether the study area—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(b) STUDY AREA.—

(1) IN GENERAL.—

(A) SOUTH CAROLINA.—The study area shall include the following counties in South Carolina: Anderson, Pickens, Greenville County, Spartanburg, Cherokee County, Greenwood, Laurens, Union, York, Chester, Darlington, Florence, Chesterfield, Marlboro, Fairfield, Richland, Lancaster, Kershaw, Sumter, Orangeburg, Georgetown, Dorchester, Colleton, Charleston, Beaufort, Calhoun, Clarendon, and Williamsburg.

(B) NORTH CAROLINA.—The study area may include sites and locations in North Carolina as appropriate.

(2) SPECIFIC SITES.—The heritage area may include the following sites of interest:

(A) NATIONAL PARK SERVICE SITE.—Kings Mountain National Military Park, Cowpens National Battlefield, Fort Moultrie National Monument, Charles Pickney National Historic Site, and Ninety Six National Historic Site as well as the National Park Affiliate of Historic Camden Revolutionary War Site.

(B) STATE-MAINTAINED SITES.—Colonial Dorchester State Historic Site, Eutaw Springs Battle Site, Hampton Plantation State Historic Site, Landsford Canal State Historic Site, Andrew Jackson State Park, and Musgrove Mill State Park.

(C) COMMUNITIES.—Charleston, Beaufort, Georgetown, Kingstree, Cheraw, Camden, Winnsboro, Orangeburg, and Cayce.

(D) OTHER KEY SITES OPEN TO THE PUBLIC.—Middleton Place, Goose Creek Church, Hopsewee Plantation, Walnut Grove Plantation, Fort Watson, and Historic Brattonsville.

(c) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available to carry out this subtitle, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

TITLE IV—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2005''.

SEC. 402. TRANSITION AND PROVISIONS FOR NEW LOCAL COORDINATING ENTITY.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103—

(A) in paragraph (8), by striking ''and'';

(B) in paragraph (9), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(10) the term 'Association' means the Canal Corridor Association (an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code).''.

(2) By adding at the end of section 112 the following new paragraph:

''(7) The Secretary shall enter into a memorandum of understanding with the Association to help ensure appropriate transition of the local coordinating entity to the Association and coordination with the Association regarding that role.''.

(3) By adding at the end the following new sections:

''SEC. 119. ASSOCIATION AS LOCAL COORDINATING ENTITY.

''Upon the termination of the Commission, the local coordinating entity for the corridor shall be the Association.

''SEC. 120. DUTIES AND AUTHORITIES OF ASSOCIATION.

''For purposes of preparing and implementing the management plan developed under section 121, the Association may use Federal funds made available under this title—

''(1) to make grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person;

''(2) to hire, train, and compensate staff; and

''(3) to enter into contracts for goods and services.

''SEC. 121. DUTIES OF THE ASSOCIATION.

''The Association shall—

''(1) develop and submit to the Secretary for approval under section 123 a proposed management plan for the corridor not later than 2 years after Federal funds are made available for this purpose;

''(2) give priority to implementing actions set forth in the management plan, including taking steps to assist units of local government, regional planning organizations, and other organizations—

''(A) in preserving the corridor;

''(B) in establishing and maintaining interpretive exhibits in the corridor;

''(C) in developing recreational resources in the corridor;

''(D) in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the corridor; and

''(E) in facilitating the restoration of any historic building relating to the themes of the corridor;

''(3) encourage by appropriate means economic viability in the corridor consistent with the goals of the management plan;

''(4) consider the interests of diverse governmental, business, and other groups within the corridor;

''(5) conduct public meetings at least quarterly regarding the implementation of the management plan;

''(6) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary; and

''(7) for any year in which Federal funds have been received under this title—

''(A) submit an annual report to the Secretary setting forth the Association's accomplishments, expenses and income, and the identity of each entity to which grants were made during the year for which the report is made;

''(B) make available for audit all records pertaining to the expenditure of such funds and any matching funds; and

''(C) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

''SEC. 122. USE OF FEDERAL FUNDS.

''(a) IN GENERAL.—The Association shall not use Federal funds received under this title to acquire real property or an interest in real property.

''(b) OTHER SOURCES.—Nothing in this title precludes the Association from using Federal funds from other sources for authorized purposes.

''SEC. 123. MANAGEMENT PLAN.

''(a) PREPARATION OF MANAGEMENT PLAN.—Not later than 3 years after the date that Federal funds are made available for this purpose, the Association shall submit to the Secretary for approval a proposed management plan that shall—

''(1) take into consideration State and local plans and involve residents, local governments and public agencies, and private organizations in the corridor;

''(2) present comprehensive recommendations for the corridor's conservation, funding, management, and development;

''(3) include actions proposed to be undertaken by units of government and nongovernmental and private organizations to protect the resources of the corridor;

''(4) specify the existing and potential sources of funding to protect, manage, and develop the corridor; and

''(5) include—

''(A) identification of the geographic boundaries of the corridor;

''(B) a brief description and map of the corridor's overall concept or vision that show key sites, visitor facilities and attractions, and physical linkages;

''(C) identification of overall goals and the strategies and tasks intended to reach them, and a realistic schedule for completing the tasks;

''(D) a listing of the key resources and themes of the corridor;

''(E) identification of parties proposed to be responsible for carrying out the tasks;

''(F) a financial plan and other information on costs and sources of funds;

''(G) a description of the public participation process used in developing the plan and a proposal for public participation in the implementation of the management plan;

''(H) a mechanism and schedule for updating the plan based on actual progress;

''(I) a bibliography of documents used to develop the management plan; and

''(J) a discussion of any other relevant issues relating to the management plan.

''(b) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary within 3 years after the date that Federal funds are made available for this purpose, the Association shall be ineligible to receive additional funds under this title until the Secretary receives a proposed management plan from the Association.

''(c) APPROVAL OF MANAGEMENT PLAN.—The Secretary shall approve or disapprove a proposed management plan submitted under this title not later than 180 days after receiving such proposed management plan. If action is not taken by the Secretary within the time period specified in the preceding sentence, the management plan shall be deemed approved. The Secretary shall consult with the local entities representing the diverse interests of the corridor including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners prior to approving the management plan. The Association shall conduct semi-annual public meetings, workshops, and hearings to provide adequate opportunity for the public and local and governmental entities to review and to aid in the preparation and implementation of the management plan.

''(d) EFFECT OF APPROVAL.—Upon the approval of the management plan as provided in subsection (c), the management plan shall supersede the conceptual plan contained in the National Park Service report.

''(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed management plan within the time period specified in subsection (c), the Secretary shall advise the Association in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan.

''(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve all substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan. Funds made available under this title may not be expended to implement any changes made by a substantial amendment until the Secretary approves that substantial amendment.

''SEC. 124. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

''(a) TECHNICAL AND FINANCIAL ASSISTANCE.—Upon the request of the Association, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Association to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the Association and other public or private entities for this purpose. In assisting the Association, the Secretary shall give priority to actions that in general assist in—

''(1) conserving the significant natural, historic, cultural, and scenic resources of the corridor; and

''(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the corridor.

''(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the corridor shall—

''(1) consult with the Secretary and the Association with respect to such activities;

''(2) cooperate with the Secretary and the Association in carrying out their duties under this title;

''(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

''(4) to the maximum extent practicable, conduct or support such activities in a manner which the Association determines is not likely to have an adverse effect on the corridor.

''SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

''(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent of that cost.

''SEC. 126. SUNSET.

''The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this section.''.

SEC. 403. PRIVATE PROPERTY PROTECTION.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 is further amended by adding after section 126 (as added by section 402) the following new sections:

''SEC. 127. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

''(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the corridor until the owner of that private property has been notified in writing by the Association and has given written consent for such preservation, conservation, or promotion to the Association.

''(b) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the corridor, and not notified under subsection (a), shall have their property immediately removed from the boundary of the corridor by submitting a written request to the Association.

''SEC. 128. PRIVATE PROPERTY PROTECTION.

''(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

''(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

''(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

''(b) LIABILITY.—Designation of the corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

''(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

''(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN CORRIDOR.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the corridor to participate in or be associated with the corridor.

''(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the corridor represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the corridor or

its viewshed by the Secretary, the National Park Service, or the Association.''.

TITLE V—REAUTHORIZATION OF APPROPRIATIONS FOR NEW JERSEY COASTAL HERITAGE TRAIL ROUTE

SEC. 501. REAUTHORIZATION OF APPROPRIATIONS FOR NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

(a) REAUTHORIZATION.—Public Law 100–515 (16 U.S.C. 1244 note) is amended by striking section 6 and inserting the following:

''SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts made available under subsection (a) shall be used only for—

''(A) technical assistance; and

''(B) the design and fabrication of interpretive materials, devices, and signs.

''(2) LIMITATIONS.—No funds made available under subsection (a) shall be used for—

''(A) operation, repair, or construction costs, except for the costs of constructing interpretive exhibits; or

''(B) operation, maintenance, or repair costs for any road or related structure.

''(3) COST-SHARING REQUIREMENT.—

''(A) FEDERAL SHARE.—The Federal share of any project carried out with amounts made available under subsection (a)—

''(i) may not exceed 50 percent of the total project costs; and

''(ii) shall be provided on a matching basis.

''(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of carrying out a project with amounts made available under subsection (a) may be in the form of cash, materials, or in-kind services, the value of which shall be determined by the Secretary.

''(c) TERMINATION OF AUTHORITY.—The authorities provided to the Secretary under this Act shall terminate on September 30, 2007.''.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary of the Interior shall prepare a strategic plan for the New Jersey Coastal Heritage Trail Route.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

(B) organizational options for sustaining the New Jersey Coastal Heritage Trail Route.

SA 1584. Ms. COLLINS (for Mr. DOMENICI) proposed and amendment to the bill S. 203, to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes; as follows:

Amend the title so as to read: ''A bill to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.''.

SA 1585. Ms. COLLINS (for Mr. BINGAMAN (for himself and Mr. DOMENICI)) proposed an amendment to the bill S. 214, to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; as follows:

On page 7, strike lines 15 through 19 and insert the following:

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

SA 1586. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 243, to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Heritage Areas Partnership Act''.

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

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to promote public understanding, appreciation, and enjoyment of many places, events and people that have contributed to the story of the United States;

(2) to promote innovative and partnership-driven management strategies that recognize regional values, encourage locally tailored resource stewardship and interpretation, and provide for the effective leveraging of Federal funds with other local, State, and private funding sources;

(3) to unify national standards and processes for conducting feasibility studies, designating a system of National Heritage Areas, and approving management plans for National Heritage Areas;

(4) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within National Heritage Areas; and

(5) to provide financial and technical assistance to National Heritage Area local coordinating entities that act as a catalyst for diverse regions, communities, organizations, and citizens to undertake projects and programs for collaborative resource stewardship and interpretation.

SEC. 3. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 7.

(3) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means an area designated by Congress that is nationally important to the heritage of the United States and meets the criteria established under section 5(a).

(4) NATIONAL IMPORTANCE.—The term ''national importance'' means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROPOSED NATIONAL HERITAGE AREA.—The term ''proposed National Heritage Area'' means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STUDY.—The term ''study'' means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 5, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

(8) SYSTEM.—The term ''system'' means the system of National Heritage Areas established under section 4(a).

SEC. 4. NATIONAL HERITAGE AREAS SYSTEM.

(a) IN GENERAL.—In order to recognize certain areas of the United States that tell nationally important stories and to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the areas that together illustrate significant aspects of the heritage of the United States, there is established a system of National Heritage Areas through which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment, development, and continuity of the National Heritage Areas.

(b) SYSTEM.—The system of National Heritage Areas shall be composed of—

(1) National Heritage Areas established by Congress before or on the date of enactment of this Act; and

(2) National Heritage Areas established by Congress after the date of enactment of this Act, as provided for in this Act.

(c) RELATIONSHIP TO THE NATIONAL PARK SYSTEM.—

(1) RELATIONSHIP TO NATIONAL PARK UNITS.—The Secretary shall—

(A) ensure, to the maximum extent practicable, participation and assistance by units of the National Park System located near or encompassed by National Heritage Areas in local initiatives for National Heritage Areas that conserve and interpret resources consistent with an approved management plan; and

(B) work with National Heritage Areas to promote public enjoyment of units of the National Park System and park-related resources.

(2) APPLICABILITY OF LAWS.—National Heritage Areas shall not be—

(A) considered to be units of the National Park System; or

(B) subject to the laws applicable to units of the National Park System.

(d) DUTIES.—Under the system, the Secretary shall—

(1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on studies undertaken by other parties to make such assessment;

(2) provide technical and financial assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical and financial assistance and support to ensure consistency and accountability under the system;

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act; and

(7)(A) conduct an evaluation and prepare a report on the accomplishments, sustainability, and recommendations for the future of each designated National Heritage Area 3 years before cessation of Federal funding for the area under section 12; and

(B) submit a report on the findings of the evaluation to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 5. STUDIES.

(a) CRITERIA.—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) APPROVAL.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

(1) review, comment on, and determine if the study meets the criteria specified in subsection (a) for designation as a National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

SEC. 6. DESIGNATION OF NATIONAL HERITAGE AREAS.

(a) IN GENERAL.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under section 5(a).

(b) COMPONENT OF THE SYSTEM.—Any National Heritage Area designated under subsection (a) shall be a component of the system.

SEC. 7. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 8. LOCAL COORDINATING ENTITIES.

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 7;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 9. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 10. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 11. PARTNERSHIP SUPPORT.

(a) TECHNICAL ASSISTANCE.—On termination of the 15-year period for which assistance is provided under section 12, the Secretary may, on request of a local coordinating entity, continue to provide technical assistance to a National Heritage Area under section 4.

(b) GRANT ASSISTANCE.—

(1) IN GENERAL.—The Secretary may establish a grant program under which the Secretary provides grants, on a competitive basis, to local coordinating entities for the conduct of individual projects at National Heritage Areas for which financial assistance has terminated under section 12.

(2) CONDITIONS.—The provision of a grant under paragraph (1) shall be subject to the condition that—

(A) a project must be approved by the local coordinating entity as promoting the purposes of the management plan required under section 7;

(B) a project may receive only 1 grant of no more than $250,000 in any 1 fiscal year;

(C) a maximum of $250,000 may be received by a local coordinating entity for projects funded under this subsection in any 1 fiscal year; and

(D) a project shall not be eligible for funding under this section in any fiscal year that a local coordinating entity receives an appropriation through the National Park Service (excluding technical assistance) for the National Heritage Area at which the project is being conducted.

(c) REPORT.—For each fiscal year in which assistance is provided under this section, the Secretary shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a list of the projects provided assistance for the fiscal year.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) STUDIES.—There is authorized to be appropriated to conduct and review studies under section 5 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 8 $25,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this section (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating entity.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) HERITAGE PARTNERSHIP GRANT ASSISTANCE.—There is authorized to be appropriated to the Secretary to carry out section 11 $5,000,000 for each fiscal year.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

SA 1587. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 264, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii; as follows:

On page 2, strike lines 1 through 5 and insert the following:

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

"SEC. 1638. HAWAII RECLAMATION PROJECTS.

On page 3, strike line 13 and all that follows through the matter following line 14 and insert the following:

is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

''Sec. 1637. Williamson County, Texas, Water Recylcing and Reuse Project.
''Sec. 1638. Hawaii reclamation projects.''.

SA 1588. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 128, to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Northern California Coastal Wild Heritage Wilderness Act''.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means—

(1) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(2) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of California are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) SNOW MOUNTAIN WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Mendocino National Forest, comprising approximately 23,312 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall considered to be a part of the ''Snow Mountain Wilderness'', as designated by section 101(a)(31) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Skeleton Glade Unit, Snow Mountain Proposed Wilderness Addition, Mendocino National Forest'' and dated April 21, 2005; and

(ii) the map entitled ''Bear Creek/Deafy Glade Unit, Snow Mountain Wilderness Addition, Mendocino National Forest'' and dated April 21, 2005.

(2) SANHEDRIN WILDERNESS.—Certain land in the Mendocino National Forest, comprising approximately 10,571 acres, as generally depicted on the map entitled ''Sanhedrin Proposed Wilderness, Mendocino National Forest'' and dated April 21, 2005, which shall be known as the ''Sanhedrin Wilderness''.

(3) YUKI WILDERNESS.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Lake and Mendocino Counties, California, together comprising approximately 53,887 acres, as generally depicted on the map entitled ''Yuki Proposed Wilderness'' and dated May 23, 2005, which shall be known as the ''Yuki Wilderness''.

(4) YOLLA BOLLY-MIDDLE EEL WILDERNESS ADDITION.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Mendocino County, California, together comprising approximately 27,036 acres, as generally depicted on the map entitled ''Middle Fork Eel, Smokehouse and Big Butte Units, Yolla Bolly-Middle Eel Proposed Wilderness Addition'' and dated June 7, 2005, is incorporated in and shall considered to be a part of the Yolla Bolly-Middle Eel Wilderness, as designated by section 3 of the Wilderness Act (16 U.S.C. 1132).

(5) MAD RIVER BUTTES WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 5,506 acres, as generally depicted on the map entitled ''Mad River Buttes, Mad River Proposed Wilderness'' and dated June 28, 2005, which shall be known as the ''Mad River Buttes Wilderness''.

(6) SISKIYOU WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 44,801 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall be considered to be a part of the Siskiyou Wilderness, as designated by section 101(a)(30) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Bear Basin Butte Unit, Siskiyou Proposed Wilderness Additions, Six Rivers National Forest'' and dated June 28, 2005;

(ii) the map entitled ''Blue Creek Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated October 28, 2004;

(iii) the map entitled ''Blue Ridge Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated June 28, 2005;

(iv) the map entitled ''Broken Rib Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated June 28, 2005; and

(v) the map entitled ''Wooly Bear Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated June 28, 2005.

(7) MOUNT LASSIC WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 7,279 acres, as generally depicted on the map entitled ''Mt. Lassic Proposed Wilderness'' and dated June 7, 2005, which shall be known as the ''Mount Lassic Wilderness''.

(8) TRINITY ALPS WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 28,805 acres, as generally depicted on the maps described in subparagraph (B) and which is incorporated in and shall be considered to be a part of the Trinity Alps Wilderness as designated by section 101(a)(34) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Orleans Mountain Unit (Boise Creek), Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'', and dated October 28, 2004;

(ii) the map entitled ''East Fork Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004;

(iii) the map entitled ''Horse Linto Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004; and

(iv) the map entitled ''Red Cap Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'' and dated June 7, 2005.

(9) UNDERWOOD WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 2,705 acres, as generally depicted on the map entitled ''Underwood Proposed Wilderness, Six Rivers National Forest'' and dated June 28, 2005, which shall be known as the ''Underwood Wilderness''.

(10) CACHE CREEK WILDERNESS.—Certain land administered by the Bureau of Land Management in Lake County, California, comprising approximately 31,025 acres, as generally depicted on the map entitled ''Cache Creek Wilderness Area'' and dated June 16, 2005, which shall be known as the ''Cache Creek Wilderness''.

(11) CEDAR ROUGHS WILDERNESS.—Certain land administered by the Bureau of Land Management in Napa County, California, comprising approximately 6,350 acres, as generally depicted on the map entitled ''Cedar Roughs Wilderness Area'' and dated September 27, 2004, which shall be known as the ''Cedar Roughs Wilderness''.

(12) SOUTH FORK EEL RIVER WILDERNESS.—Certain land administered by the Bureau of Land Management in Mendocino County, California, comprising approximately 12,915 acres, as generally depicted on the map entitled ''South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness'' and dated June 16, 2005, which shall be known as the ''South Fork Eel River Wilderness''.

(13) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Certain land administered by the Bureau of Land Management in Humboldt and Mendocino Counties, California, comprising approximately 42,585 acres, as generally depicted on the map entitled ''King Range Wilderness'', and dated November 12, 2004, which shall be known as the ''King Range Wilderness''.

(B) APPLICABLE LAW.—With respect to the wilderness designated by subparagraph (A), in the case of a conflict between this Act and Public Law 91–476 (16 U.S.C. 460y et seq.), the more restrictive provision shall control.

(14) ROCKS AND ISLANDS.—

(A) IN GENERAL.—All Federally-owned rocks, islets, and islands (whether named or unnamed and surveyed or unsurveyed) that are located—

(i) not more than 3 geographic miles off the coast of the King Range National Conservation Area; and

(ii) above mean high tide.

(B) APPLICABLE LAW.—In the case of a conflict between this Act and Proclamation No. 7264 (65 Fed. Reg. 2821), the more restrictive provision shall control.

SEC. 4. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to

be a reference to the Secretary that has jurisdiction over the wilderness.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this Act is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(e) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—

(1) IN GENERAL.—The Secretary may take such measures in the wilderness areas designated by this Act as are necessary for the control and prevention of fire, insects, and diseases, in accordance with—

(A) section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(B) House Report No. 98–40 of the 98th Congress.

(2) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall review existing policies applicable to the wilderness areas designated by this Act to ensure that authorized approval procedures for any fire management measures allow a timely and efficient response to fire emergencies in the wilderness areas.

(f) ACCESS TO PRIVATE PROPERTY.—

(1) IN GENERAL.—The Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this Act adequate access to such property to ensure the reasonable use and enjoyment of the property by the owner.

(2) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Subject to subparagraph (B), within the wilderness designated by section 3(13), the access route depicted on the map for private landowners shall also be available for invitees of the private landowners.

(B) LIMITATION.—Nothing in subparagraph (A) requires the Secretary to provide any access to the landowners or invitees beyond the access that would be available if the wilderness had not been designated.

(g) SNOW SENSORS AND STREAM GAUGES.—If the Secretary determines that hydrologic, meteorologic, or climatological instrumentation is appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this Act, nothing in this Act prevents the installation and maintenance of the instrumentation within the wilderness areas.

(h) MILITARY ACTIVITIES.—Nothing in this Act precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(i) LIVESTOCK.—Grazing of livestock and the maintenance of existing facilities related to grazing in wilderness areas designated by this Act, where established before the date of enactment of this Act, shall be permitted to continue in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(j) FISH AND WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas designated by this Act if such activities are—

(A) consistent with applicable wilderness management plans; and

(B) carried out in accordance with applicable guidelines and policies.

(2) STATE JURISDICTION.—Nothing in this Act affects the jurisdiction of the State of California with respect to fish and wildlife on the public land located in the State.

(k) USE BY MEMBERS OF INDIAN TRIBES.—

(1) ACCESS.—In recognition of the past use of wilderness areas designated by this Act by members of Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure that Indian tribes have access to the wilderness areas for traditional cultural and religious purposes.

(2) TEMPORARY CLOSURES.—

(A) IN GENERAL.—In carrying out this section, the Secretary, on request of an Indian tribe, may temporarily close to the general public 1 or more specific portions of a wilderness area to protect the privacy of the members of the Indian tribe in the conduct of the traditional cultural and religious activities in the wilderness area.

(B) REQUIREMENT.—Any closure under subparagraph (A) shall be made in such a manner as to affect the smallest practicable area for the minimum period of time necessary for the activity to be carried out.

(3) APPLICABLE LAW.—Access to the wilderness areas under this subsection shall be in accordance with—

(A) Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996 et seq.); and

(B) the Wilderness Act (16 U.S.C. 1131 et seq.).

(l) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this Act creates protective perimeters or buffer zones around any wilderness area designated by this Act.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by this Act shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 5. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any previous Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS.—The study areas referred to in subsection (a) are—

(1) the King Range Wilderness Study Area;

(2) the Chemise Mountain Instant Study Area;

(3) the Red Mountain Wilderness Study Area;

(4) the Cedar Roughs Wilderness Study Area; and

(5) those portions of the Rocky Creek/Cache Creek Wilderness Study Area in Lake County, California which are not in R. 5 W., T. 12 N., sec. 22, Mount Diablo Meridian.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any other Act enacted before the date of enactment of this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

SEC. 6. ELKHORN RIDGE POTENTIAL WILDERNESS AREA.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public land in the State administered by the Bureau of Land Management, compromising approximately 11,271 acres, as generally depicted on the map entitled ''South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness'' and dated June 16, 2005, is designated as a potential wilderness area.

(b) MANAGEMENT.—Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area as wilderness until the potential wilderness area is designated as wilderness.

(c) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—For purposes of ecological restoration (including the elimination of non-native species, removal of illegal, unused, or decommissioned roads, repair of skid tracks, and any other activities necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may used motorized equipment and mechanized transport in the potential wilderness area until the potential wilderness area is designated as wilderness.

(2) LIMITATION.—To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.

(d) WILDERNESS DESIGNATION.—

(1) IN GENERAL.—The potential wilderness area shall be designated as wilderness and as a component of the National Wilderness Preservation System on the earlier of—

(A) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have been removed; or

(B) the date that is 5 years after the date of enactment of this Act.

(2) ADMINISTRATION.—On designation as wilderness under paragraph (1), the potential wilderness area shall be—

(A) known as the ''Elkhorn Ridge Wilderness''; and

(B) administered in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 7. WILD AND SCENIC RIVER DESIGNATION.

(a) DESIGNATION OF BLACK BUTTE RIVER, CALIFORNIA.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(167) BLACK BUTTE RIVER, CALIFORNIA.—The following segments of the Black Butte River in the State of California, to be administered by the Secretary of Agriculture:

''(A) The 16 miles of Black Butte River, from the Mendocino County Line to its confluence with Jumpoff Creek, as a wild river.

''(B) The 3.5 miles of Black Butte River from its confluence with Jumpoff Creek to its confluence with Middle Eel River, as a scenic river.

''(C) The 1.5 miles of Cold Creek from the Mendocino County Line to its confluence with Black Butte River, as a wild river.''.

(b) PLAN; REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress—

(A) a fire management plan for the Black Butte River segments designated by the amendment under subsection (a); and

(B) a report on the cultural and historic resources within those segments.

(2) TRANSMITTAL TO COUNTY.—The Secretary of Agriculture shall transmit to the Board of Supervisors of Mendocino County, California, a copy of the plan and report submitted under paragraph (1).

SEC. 8. KING RANGE NATIONAL CONSERVATION AREA BOUNDARY ADJUSTMENT.

Section 9 of Public Law 91–476 (16 U.S.C. 460y–8) is amended by adding at the end the following:

''(d) In addition to the land described in subsections (a) and (c), the land identified as the King Range National Conservation Area Additions on the map entitled 'King Range Wilderness' and dated November 12, 2004, is included in the Area.''.

SA 1589. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 136, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting ''and yosemite national park'' after ''zion national park'';

(2) in the first sentence—

(A) by inserting ''and Yosemite National Park'' after ''Zion National Park''; and

(B) by inserting ''for transportation systems or'' after ''appropriated funds''; and

(3) in the second sentence by striking ''facilities'' and inserting ''systems or facilities''.

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking ''service contract'' and inserting ''service contract, cooperative agreement, or other contractual arrangement''.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act''.

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking ''The recreation area shall comprise'' and inserting the following:

''(1) INITIAL LANDS.—The recreation area shall comprise''; and

(2) by striking ''The following additional lands are also'' and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

''(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

''(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

''(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

''(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

''(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

''(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

''(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.''.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Redwood National Park Boundary Adjustment Act of 2005''.

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking ''(a) The area'' and all that follows through the period at the end and inserting the following: ''(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised

Boundary', numbered 167/60502, and dated February, 2003.'';

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

''(2) The map referred to in paragraph (1) shall be—

''(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

''(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California.''; and

(3) in the second sentence—

(A) by striking ''The Secretary'' and inserting the following:

''(3) The Secretary;''and

(B) by striking ''one hundred and six thousand acres'' and inserting ''133,000 acres''.

SA 1590. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 136, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes; as follows:

Amend the title so as to read: ''To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.'' .

SA 1591. Ms. COLLINS (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 279, to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

''SEC. 20. CRIMINAL JURISDICTION.

''(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

''(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos' inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), or by any other Indian-owned entity.

''(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in title 25, sections 1301(2) and 1301(4) or any Indian-owned entity, or that involves any Indian property or interest.

''(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), which offense is not subject to the jurisdiction of the United States.''.

SA 1592. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On Page 4, line 15, insert

''(d) FINAL DISPOSITION.—Not later than 2 years after a determination is made that the person detained is an unlawful enemy combatant, the person must be either charged in an appropriate district court of the United States, an international criminal tribunal, a United States military tribunal, or repatriated to the country in which the person was first detained or the person's country of origin, except where there are grounds to believe that the person would be in danger of being subjected to torture. With regard to detainees currently deemed unlawful enemy combatants before the enactment of this section, the United States has 180 days to dispose of the person's case under this subsection.

SA 1593. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1522 submitted by Mrs. DOLE and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, add the following:

(c) REPORT.—Not later than September 30, 2006, the Secretary of Defense shall submit a report to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives regarding the implementation of the training programs under this section, including an assessment of the need for additional personnel in the defense acquisition workforce to carry out the requirements of this section.

SA 1594. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1499 submitted by Mr. KERRY and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(3) REPORT.—

(A) IN GENERAL.—The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives on an annual basis a report setting forth the research programs identified under paragraph (1) during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report, a description of—

(i) the incentives and actions taken by prime contractors and program managers to increase Phase III awards under the Small Business Innovation Research Program; and

(ii) the requirements intended to be met by each program identified in the report.

(4) FUNDING AUTHORITY.—

(A) IN GENERAL.—The Secretary of each military department is authorized to use not more than an amount equal to 1 percent of the funds available to the military department in each fiscal year for the Small Business Innovation Research Program for the accelerated process described in paragraph (1) to transition programs that have successfully completed Phase II of the Small Business Innovation Research Program to Phase III of the Program.

(B) TERM.—The funding authority under subparagraph (A) shall terminate not later than 3 years after the date on which the accelerated transition program under paragraph (1) is initiated.

(C) EXEMPTION.—The Phase III program activities authorized by this subsection shall not be subject to the limitations on the use of funds in section 9(f)(2) of the Small Business Act (15 U.S.C. 638).

SA 1595. Mr. GRAHAM (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 1074. REVIEW OF DETENTION OF ENEMY COMBATANTS.

(a) DETENTION OF ENEMY COMBATANTS.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) No court, justice, or judge shall have jurisdiction to consider—

''(1) an application for a writ of habeas corpus filed on behalf of an alien who is detained as an enemy combatant by the United States Government; or

''(2) any other action challenging any aspect of the detention of an alien who is detained by the Secretary of Defense as an enemy combatant, if the alien has been afforded an opportunity to challenge his detention pursuant to the procedures specified in paragraphs (1) and (2) of section 1073(b) of the National Defense Authorization Act for Fiscal Year 2006, to the extent modified by the President pursuant to the authority in paragraph (3) of such section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any application or other action pending on or after the date of the enactment of this Act.

SA 1596. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CURTAILMENT OF WASTE UNDER DEPARTMENT OF DEFENSE WEB-BASED TRAVEL SYSTEM.

(a) PROHIBITION ON USE OF FUNDS.—No funds available to the Department of Defense may be obligated or expended after October 1, 2005, for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

(b) CONSTRUCTION OF PROHIBITION.—Nothing in subsection (a) shall be construed as restricting the ability of the Department of Defense from obtaining eTravel services from any provider under the General Services Administration eTravel contract, provided that—

(1) such provider receives no payment for such services above, or in addition to, a fixed price transaction fee; and

(2) such provider provides to the Department of Defense a written guarantee that all commercial air travel is secured at the lowest available price, consistent with Federal Travel Regulations and the mission objective of the traveler.

SA 1597. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1524 submitted by Mrs. DOLE (for herself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DEWINE, Ms. LANDRIEU, Mr. CHAFEE, Ms. MIKULSKI, Mr. CHAMBLISS, and Mr. DURBIN) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) IN GENERAL.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(17) Services of mental health counselors, except that—

''(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

''(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as 'medically underserved areas' where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

''(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.''.

(b) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting ''mental health counselors,'' after ''psychologists,''.

SA 1598. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION ___. REQUIREMENT FOR DETERMINATION BY VETERANS' DISABILITY BENEFITS COMMISSION REGARDING REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION BEFORE CHANGES TO THOSE BENEFITS MAY BE IMPLEMENTED.

(a) FINDING.—Congress finds that the Veterans' Disability Benefits Commission (in this section referred to as the ''Commission'') established by section 1501 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1676; 38 U.S.C. 1101 note) is currently performing a comprehensive review and study of the benefits provided under the laws of the United States to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service, and that the Commission should be required to make findings and submit recommendations regarding the integration of benefits under the Survivor Benefit Plan and Dependency and Indemnity Compensation prior to changes in the laws controlling those benefits are implemented.

(b) FURTHER FINDINGS.—Congress makes the following further findings:

(1) Significant changes have been enacted since 2003 in the laws affecting veterans, retiree, and survivor benefits, including—

(A) phased elimination of the bar on military retirees concurrently receiving military retired pay and veterans' disability;

(B) phased elimination of the reduction in Survivor Benefit Plan benefits when beneficiaries reach age 62;

(C) provision of Survivor Benefit Plan coverage at no cost to all military members serving on active duty;

(D) an increase in the death gratuity to $100,000; and

(E) an increase in the maximum available benefit under Servicemembers' Group Life Insurance to $400,000.

(2) In carrying out its study, the Commission is required to examine and make recommendations concerning the appropriateness of veterans' benefits under the laws in effect on November 24, 2003, and the level of such benefits.

(3) The study to be carried out by the Commission, under its legislative charter, must be a comprehensive evaluation and assessment of the benefits provided under the laws of the United States to compensate veterans and their survivors for disability or death attributable to military service together with any related issues that the commission determines are relevant to the purposes of the study.

(4) Not later than 15 months after the date on which the Commission first met on May 8, 2005, the Commission is required to submit to the President and Congress a report on the study that shall include the findings and conclusions of the Commission and recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

(c) ADDITIONAL MATTER FOR COMMISSION STUDY.—Section 1501(c) of the National Defense Authorization Act for Fiscal Year 2004 (117 Stat. 1678; 38 U.S.C. 1101 note) is amended by adding at the end the following new paragraph:

''(4) The laws and regulations for determining eligibility for dependency and indemnity compensation under chapter 13 of title 38, United States Code, and for benefits under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code.''.

SA 1599. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1366 submitted by Mr. FEINGOLD and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. REPORTS ON IMPROVEMENTS IN TRANSITION ASSISTANCE PROGRAMS.

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

(1) The Comptroller General of the United States, pursuant to section 598 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1938), performed a study (GAO–05–544, entitled ''Enhanced Services Could Improve Transition Assistance for Reserves and National Guard'') on transition assistance programs for members separating from the Armed Forces.

(2) The Comptroller General found that Federal agencies, including the Department

of Defense, the Department of Veterans Affairs, and the Department of Labor, have taken actions to improve transition assistance program content and increase participation among full-time active duty military personnel.

(3) The Comptroller General found, however, that there are often significant challenges serving Reserve and National Guard members because of their rapid demobilization.

(4) The Comptroller General recommended that the Department of Defense, in conjunction with the Department of Labor and the Department of Veterans Affairs, determine what demobilizing Reserve and National Guard members need to make a smooth transition and explore options to enhance their participation in transition assistance programs.

(5) In addition, the Comptroller General recommended that the Department of Veterans Affairs take actions to determine the level of participation in disabled transition assistance programs to ensure those who may have especially complex needs are being served.

(b) REPORTS ON TRANSITION ASSISTANCE PROGRAMS.—

(1) REPORT ON EFFECTIVE FUNCTION OF ALL PROGRAMS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, shall submit to Congress a report on the actions that the Secretary has taken in order to ensure that Transition Assistance Programs for members of the Armed Forces separating from the Armed Forces(including members of regular and reserve components of the Armed Forces but particularly members of the reserve components who have previously been deployed to Operation Iraqi Freedom, Operation Enduring Freedom, and all other contingency operations) function effectively to ensure that such members of the Armed Forces receive timely and comprehensive transition assistance.

(2) REPORT ON DEPARTMENT OF DEFENSE ACTIVITIES.—Not later than 1 March 2006, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to provide transition assistance to members of the Armed Forces.

SA 1600. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1406 submitted by Mr. LUGAR and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1205. SECURITY AND STABILIZATION ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may, upon the request of the Secretary of State, authorize the use or transfer of defense articles, services, or training to provide reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country if the Secretary of Defense determines that—

(1) an unforeseen emergency exists in that country that requires the immediate provision of such assistance; and

(2) the provision of such assistance is in the national security interests of the United States.

(b) LIMITATION.—The aggregate value of assistance provided under the authority of this section may not exceed $200,000,000.

(c) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(d) EXPIRATION.—The authority to provide assistance and transfer funds under this section shall expire on September 30, 2006.

SA 1601. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

SEC. ___. EFFECT OF CERTAIN PROVISIONS.

(a) COUNTERFEIT-RESISTANT TECHNOLOGIES.—

(1) INCORPORATION OF COUNTERFEIT-RESISTANT TECHNOLOGIES INTO PRESCRIPTION DRUG PACKAGING.—Notwithstanding any other provision of this title (or the amendments made by this title), the Secretary of Health and Human Services shall require that the packaging of any drug subject to section 503(b) incorporate—

(A) overt optically variable counterfeit-resistant technologies that are—

(i) visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(ii) similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(iii) manufactured and distributed in a highly secure, tightly controlled environment; and

(iv) incorporate additional layers of nonvisible covert security features up to and including forensic capability. described in paragraph (2) and comply with the standards of paragraph (3); or

(B) technologies that have an equivalent function of security, as determined by the Secretary.

(2) STANDARDS FOR PACKAGING.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to section 503(b), manufacturers of the drugs shall incorporate the technologies described in paragraph (2) into multiple elements of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

(3) EFFECTIVE DATE.—This subsection shall take effect 180 days after the date of enactment of this title.

(b) WEBSITE INFORMATION.—The Secretary of Health and Human Services shall publish, on the Internet website of the Food and Drug Administration described under section ___4(g) of this title, information regarding the suspension and termination of any registration of a registered importer or exporter under section 804 of the Federal Food, Drug, and Cosmetic Act (as added by this title).

(c) USER FEES.—Notwithstanding any other provisions of title (and the amendments made by this title), the Secretary may prohibit a registrant that is required to pay a user fee under section ___4(e)(9) of this title and that fails to pay such user fee within 30 days after the date on which it is due, from importing or offering for importation a prescription drug under section 804 of the Federal Food, Drug, and Cosmetic Act (as added by this title) until such fee is paid.

SA 1602. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 1567 submitted by Mr. WARNER and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Amendment 1567 insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as ''world class'' maintenance repair and overhaul operations;

(3) 1 of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of ''Lean'' and ''Six Sigma'' production techniques, have achieved great success in dramatically reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 1603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. LASER NEUTRALIZATION SYSTEM.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Advanced Weapons Technology (PE #602307A) for the Laser Neutralization System (LNS).

(c) OFFSET.—The amount authorized to be appropriated by section 101(4) for procurement of ammunition for the Army is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts available for Ammunition Production Base Support, Production Base Support for the Missile Recycling Center (MRC).

SA 1604. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, line 17, insert before the period the following: '', of which $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. 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 July 26, 2005, at 10 a.m., to conduct a hearing on the nominations of the Honorable CHRISTOPHER COX, of California, to be a member of the Securities and Exchange Commission; Mr. Roel C. Campos, of Texas, to be a member of the Securities and Exchange Commission; and Ms. Annette Nazareth, of the District of Columbia, to be a member of the Securities and Exchange Commission.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. 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 July 26, 2005, at 2:30 p.m., to conduct a hearing on the nominations of Mr. John C. Dugan, of Maryland, to be Comptroller of the Currency; Mr. John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision; and Mr. Martin J. Gruenberg, of Maryland, to be a member and vice chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

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

COMMITTEE ON FINANCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Tuesday, July 26, 2005, at 10 a.m., to consider an original bill entitled, ''The National Employee Savings and Trust Equity Guarantee Act of 2005.''

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 26, 2005, at 10 a.m. to hold a hearing on Energy Trends in China and India: Implications for the U.S.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 26, 2005, at 2:15 p.m. to hold a Business Meeting to markup nominations, treaties, and legislation.

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

COMMITTEE ON INDIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, July 26, 2005, at 10 a.m., in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on legislation to resolve the lawsuit of Cobell v. Norton and to address a number of areas of Indian trust reform.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Comprehensive Immigration Reform'' on Tuesday, July 26, 2005, at 9:30 a.m., in Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Edward Kennedy, U.S. Senator, D–MA;

The Honorable John McCain, U.S. Senator, R–AZ;

The Honorable Jon Kyl, U.S. Senator, R–AZ;

The Honorable John Cornyn, U.S. Senator, R–TX;

Panel II: The Honorable Michael Chertoff, Secretary, Department of Homeland Defense, Washington, DC;

The Honorable Elaine L. Chao, Secretary, Department of Labor, Washington, DC;

Tamar Jacoby, Senior Fellow, Manhattan Institute, New York, NY;

Gary Endelman, Author and Immigration Practitioner, Houston, TX;

Hal Daub, President and CEO, The American Health Care Association (AHCA), and testifying on behalf of the Essential Worker Immigration Coalition, Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on the nomination of Timothy Elliot Flanigan to be Deputy Attorney General on Tuesday, July 26, 2005, at 4 p.m., in Dirksen Senate Office Building, Room 226.

Witness List

Panel I: TBA.

Panel II: Timothy Elliott Flanigan to be Deputy Attorney General.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 26, 2005, at 2:30 p.m., to hold a business meeting.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, July 26, 2005, at 2:30 p.m., for a hearing regarding ''GSA—Is the Taxpayer Getting the Best Deal?''

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

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation, and Rural Revitalization be authorized to conduct a hearing during the session of the Senate on Tuesday, July 26, 2005 at 10 am in SR–328A, Russell Senate Office Building. The purpose of this subcommittee hearing will be to discuss how farm bill programs can better support species conservation.

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

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Intellectual Property be authorized to meet to conduct a hearing on ''Perspective on Patents: Harmonization and Other Matters'' on Tuesday, July 26, 2005 at 2:30 p.m. in Dirksen 226.

Witness List

The Honorable Gerald J. Mossinghoff, Former Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, and Senior Counsel Oblon, Spivak, McClelland, Maier & Neustadt, Alexandria, VA;

The Honorable Q. Todd Dickinson, Former Assistant Secretary of Commerce and Commissioner of Patents and Trademarks and Vice President and Chief Intellectual Property Counsel, General Electric Company, Fairfield, CT;

Christine J. Siwik, Partner, Rakoczy Molino Mazzochi Siwik LLP, on behalf of Barr Laboratories, Inc., Chicago, IL;

Marshall C. Phelps, Jr., Corporate Vice President and Deputy General Counsel for Intellectual Property Microsoft Corporation, Redmond, WA;

Charles E. Phelps, Provost, University of Rochester on behalf of the Association of American Universities, Rochester, NY;

David Beier, Senior Vice President of Global Government Affairs Amgen, Washington, DC.

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

SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Waste Management be authorized to hold an oversight hearing on Tuesday, July 25 at 2:30 am to discuss electronic waste.

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

PRIVILEGE OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that two of my staff members, Steve Eichenauer and Elyse Wasch, be granted the privileges of the floor during the debate and pending votes.

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

The PRESIDING OFFICER. The Senator from Maine is recognized.

THE CALENDAR

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following calendar items en bloc: Calendar Nos. 11, 18, 20, 21, 22, 24, 27, 28, 29, 30, 32, 33, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 50, 52, 53, 54, 55, 58, 62, 63, 64, 65, 66, 95, and 106.

I ask unanimous consent that the amendments at the desk be agreed to en bloc; the committee-reported amendments, as amended, if amended, be agreed to en bloc; the bills, as amended, if amended, be read a third time and passed; the motions to reconsider be laid upon the table en bloc; the amendments to the titles, where applicable, be agreed to; and that any statements related to the bills be printed in the RECORD.

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

SODA ASH ROYALTY REDUCTION ACT OF 2005

The Senate proceeded to consider the bill (S. 203) to designate the United States courthouse located at 501 I Street in Sacramento, California, as the ''Robert T. Matsui United States Courthouse''.

S. 203

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 ''Soda Ash Royalty Reduction Act of 2005''.

SEC. 2. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of the enactment of this Act shall be 2 percent.

SEC. 3. STUDY.

After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this Act, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of the enactment of this Act.

The amendment (No. 1584) was agreed to, as follows:

Amend the title so as to read: ''A bill to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.''.

The bill (S. 203) was read the third time and passed.

PECOS NATIONAL HISTORICAL PARK LAND EXCHANGE ACT OF 2005

The bill (S. 47) to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico was read the third time and passed, as follows:

S. 47

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 ''Pecos National Historical Park Land Exchange Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) FEDERAL LAND.—The term ''Federal land'' means the approximately 160 acres of Federal land within the Santa Fe National Forest in the State, as depicted on the map.

(2) LANDOWNER.—The term ''landowner'' means the 1 or more owners of the non-Federal land.

(3) MAP.—The term ''map'' means the map entitled ''Proposed Land Exchange for Pecos National Historical Park'', numbered 430/80,054, dated November 19, 1999, and revised September 18, 2000.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the approximately 154 acres of non-Federal land in the Park, as depicted on the map.

(5) PARK.—The term ''Park'' means the Pecos National Historical Park in the State.

(6) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(7) STATE.—The term ''State'' means the State of New Mexico.

SEC. 3. LAND EXCHANGE.

(a) IN GENERAL.—On conveyance by the landowner to the Secretary of the Interior of the non-Federal land, title to which is acceptable to the Secretary of the Interior—

(1) the Secretary of Agriculture shall, subject to the conditions of this Act, convey to the landowner the Federal land; and

(2) the Secretary of the Interior shall, subject to the conditions of this Act, grant to the landowner the easement described in subsection (b).

(b) EASEMENT.—

(1) IN GENERAL.—The easement referred to in subsection (a)(2) is an easement (including an easement for service access) for water pipelines to 2 well sites located in the Park, as generally depicted on the map.

(2) ROUTE.—The Secretary of the Interior, in consultation with the landowner, shall determine the appropriate route of the easement through the Park.

(3) TERMS AND CONDITIONS.—The easement shall include such terms and conditions relating to the use of, and access to, the well sites and pipeline, as the Secretary of the Interior, in consultation with the landowner, determines to be appropriate.

(4) APPLICABLE LAW.—The easement shall be established, operated, and maintained in compliance with applicable Federal law.

(c) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) IN GENERAL.—The value of the Federal land and non-Federal land—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if the value is not equal, shall be equalized in accordance with paragraph (3).

(2) APPRAISALS.—

(A) IN GENERAL.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretaries.

(B) REQUIREMENTS.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisition; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(C) APPROVAL.—The appraisals conducted under this paragraph shall be submitted to the Secretaries for approval.

(3) EQUALIZATION OF VALUES.—

(A) IN GENERAL.—If the values of the non-Federal land and the Federal land are not equal, the values may be equalized by—

(i) the Secretary of the Interior making a cash equalization payment to the landowner;

(ii) the landowner making a cash equalization payment to the Secretary of Agriculture; or

(iii) reducing the acreage of the non-Federal land or the Federal land, as appropriate.

(B) CASH EQUALIZATION PAYMENTS.—Any amounts received by the Secretary of Agriculture as a cash equalization payment under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) shall—

(i) be deposited in the fund established by Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a); and

(ii) be available for expenditure, without further appropriation, for the acquisition of land and interests in land in the State.

(d) COSTS.—Before the completion of the exchange under this section, the Secretaries and the landowner shall enter into an agreement that allocates the costs of the exchange among the Secretaries and the landowner.

(e) APPLICABLE LAW.—Except as otherwise provided in this Act, the exchange of land and interests in land under this Act shall be in accordance with—

(1) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(2) other applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require, in addition to any requirements under this Act, such terms and conditions relating to the exchange of Federal land and non-Federal land and the granting of easements under this Act as the Secretaries determine to be appropriate to protect the interests of the United States.

(g) COMPLETION OF THE EXCHANGE.—

(1) IN GENERAL.—The exchange of Federal land and non-Federal land shall be completed not later than 180 days after the later of—

(A) the date on which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;

(B) the date on which the Secretary of the Interior approves the appraisals under subsection (c)(2)(C); or

(C) the date on which the Secretaries and the landowner agree on the costs of the exchange and any other terms and conditions of the exchange under this section.

(2) NOTICE.—The Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives notice of the completion of the exchange of Federal land and non-Federal land under this Act.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary of the Interior shall administer the non-Federal land acquired under this Act in accordance with the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the ''National Park Service Organic Act'') (16 U.S.C. 1 et seq.).

(b) MAPS.—

(1) IN GENERAL.—The map shall be on file and available for public inspection in the appropriate offices of the Secretaries.

(2) TRANSMITTAL OF REVISED MAP TO CONGRESS.—Not later than 180 days after completion of the exchange, the Secretaries shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a revised map that depicts—

(A) the Federal land and non-Federal land exchanged under this Act; and

(B) the easement described in section 3(b).

RIM OF THE VALLEY CORRIDORS STUDY ACT

The bill (S. 153) to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes, was read the third time and passed, as follows:

S. 153

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 ''Rim of the Valley Corridor Study Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CORRIDOR.—

(A) IN GENERAL.—The term ''Corridor'' means the land, water, and interests of the area in the State known as the ''Rim of the Valley Corridor''.

(B) INCLUSIONS.—The term ''Corridor'' includes the mountains surrounding the San Fernando, La Crescenta, Santa Clarita, Simi, and Conejo valleys in the State.

(2) RECREATION AREA.—The term ''Recreation Area'' means the Santa Monica Mountains National Recreation Area in the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of California.

SEC. 3. RESOURCE STUDY OF THE RIM OF THE VALLEY CORRIDOR, CALIFORNIA.

(a) IN GENERAL.—The Secretary shall conduct a resource study of the Corridor to evaluate various alternatives for protecting the resources of the Corridor, including designating all or a portion of the Corridor as a unit of the Recreation Area.

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) seek to achieve the objectives of—

(A) protecting wildlife populations in the Recreation Area by preserving habitat linkages and wildlife movement corridors between large blocks of habitat in adjoining regional open space;

(B) establishing connections along the State-designated Rim of the Valley Trail System for the purposes of—

(i) creating a single contiguous Rim of the Valley Trail; and

(ii) encompassing major feeder trails connecting adjoining communities and regional transit to the Rim of the Valley Trail System;

(C) preserving recreational opportunities;

(D) facilitating access to open space for a variety of recreational users;

(E) protecting—

(i) rare, threatened, or endangered plant and animal species; and

(ii) rare or unusual plant communities and habitats;

(F) protecting historically significant landscapes, districts, sites, and structures; and

(G) respecting the needs of communities in, or in the vicinity of, the Corridor;

(2) analyze the potential impact of each alternative on staffing and other potential costs to Federal, State, and local agencies and other organizations; and

(3) analyze the potential impact that designating all or a portion of the Corridor as a unit of the Recreation Area would have on land in or bordering the area that is privately owned as of the date on which the study is conducted.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with appropriate Federal, State, county, and local government entities.

(d) APPLICABLE LAW.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study required by subsection (a).

SEC. 4. REPORT.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available for the study, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report that describes the results of the study conducted under section 3.

(b) INCLUSION.—The report submitted under subsection 4(a) shall include the concerns of private landowners within the boundaries of the Recreation Area.

VALLES CALDERA PRESERVATION ACT OF 2005

The bill (S. 212) to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes, was read the third time and passed, as follows:

S. 212

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Valles Caldera Preservation Act of 2005''.

SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

(a) ACQUISITION OF OUTSTANDING MINERAL INTERESTS.—Section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(e)) is amended—

(1) by striking ''The acquisition'' and inserting the following:

''(1) IN GENERAL.—The acquisition'';

(2) by striking ''The Secretary'' and inserting the following:

''(2) ACQUISITION.—The Secretary'';

(3) by striking ''on a willing seller basis'';

(4) by striking ''Any such'' and inserting the following:

''(3) ADMINISTRATION.—Any such''; and

(5) by adding at the end the following:

''(4) AVAILABLE FUNDS.—Any such interests shall be acquired with available funds.

''(5) DECLARATION OF TAKING.—

''(A) IN GENERAL.—If negotiations to acquire the interests are unsuccessful by the date that is 60 days after the date of enactment of this paragraph, the Secretary shall acquire the interests pursuant to section 3114 of title 40, United States Code.

''(B) SOURCE OF FUNDS.—Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31, United States Code.''.

(b) OBLIGATIONS AND EXPENDITURES.—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(e)) is amended by adding at the end the following:

''(4) OBLIGATIONS AND EXPENDITURES.—Subject to the laws applicable to Government corporations, the Trust shall determine—

''(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

''(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.''.

(c) SOLICITATION OF DONATIONS.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(g)) is amended by striking ''The Trust may solicit'' and inserting ''The

members of the Board of Trustees, the executive director, and 1 additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit''.

(d) USE OF PROCEEDS.—Section 106(h)(1) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(h)(1)) is amended by striking ''subsection (g)'' and inserting ''subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999,''.

SEC. 3. BOARD OF TRUSTEES.

Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v–5(e)) is amended—

(1) in paragraph (2), by striking ''Trustees'' and inserting ''Except as provided in paragraph (3), trustees''; and

(2) in paragraph (3)—

(A) by striking ''Trustees'' and inserting the following:

''(A) SELECTION.—Trustees''; and

(B) by adding at the end the following:

''(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

''(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

SEC. 4. RESOURCE MANAGEMENT.

(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(c)(3)) is amended—

(1) in the first sentence, by striking ''The Trust may not dispose'' and inserting the following:

''(A) IN GENERAL.—The Trust may not dispose'';

(2) in the second sentence, by striking ''The Trust'' and inserting the following:

''(B) MAXIMUM DURATION.—The Trust'';

(3) in the last sentence, by striking ''Any such'' and inserting the following:

''(C) TERMINATION.—The''; and

(4) by adding at the end the following:

''(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.''.

(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(g)) is amended—

(1) in the first sentence, by striking ''The Secretary'' and inserting the following:

''(1) LAW ENFORCEMENT.—

''(A) IN GENERAL.—The Secretary'';

(2) in the second sentence, by striking ''The Trust'' and inserting the following:

''(B) FEDERAL AGENCY.—The Trust''; and

(3) by striking ''At the request of the Trust'' and all that follows through the end of the paragraph and inserting the following:

''(2) FIRE MANAGEMENT.—

''(A) NON-REIMBURSABLE SERVICES.—

''(i) DEVELOPMENT OF PLAN.—The Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

''(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

''(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

''(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System, the Secretary may provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.''.

FEDERAL LAND RECREATIONAL VISITOR PROTECTION ACT OF 2005

The Senate proceeded to consider the bill (S. 225) to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

(Strike the part shown in black brackets and insert the part printed in italic.)

S. 225

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 ''Federal Land Recreational Visitor Protection Act of 2005''.

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) PROGRAM.—The term ''program'' means the avalanche protection program established under section 3(a).

[(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[SEC. 3. AVALANCHE PROTECTION PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish a coordinated avalanche protection program—

[(1) to provide early identification of the potential for avalanches that could endanger the safety of recreational users of public land, including skiers, backpackers, snowboarders, and campers and visitors to units of the National Park System; and

[(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

[(b) COORDINATION.—

[(1) IN GENERAL.—In developing and implementing the program, the Secretary shall consult with the Secretary of Agriculture, and coordinate the program, to ensure adequate levels of protection for recreational users of public land under the jurisdiction of the Secretary, including units of the National Park System, National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

[(2) RESOURCES.—In carrying out this section, the Secretary and the Secretary of Agriculture—

[(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

[(B) may use such other resources as the Secretary has available in the development and implementation of the program.

[(c) ADVISORY COMMITTEE.—

[(1) IN GENERAL.—The Secretary and the Secretary of Agriculture shall jointly establish an advisory committee to assist in the development and implementation of the program.

[(2) MEMBERSHIP.—

[(A) IN GENERAL.—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

[(B) REPRESENTATIVES.—The membership of the Advisory Committee shall include representatives of—

[(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

[(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

[(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

[(d) CENTRAL DEPOSITORY.—The Secretary, the Secretary of Agriculture, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

[(e) GRANTS.—

[(1) IN GENERAL.—The Secretary and the Secretary of Agriculture may make grants to carry out projects and activities under the program—

[(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

[(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

[(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

[(i) units of the National Park System; and

[(ii) other Federal land used for recreation purposes; and

[(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

[(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

[(2) PRIORITY.—For each fiscal year for which funds are made available under section 4, the Secretary shall give priority to projects and activities carried out in avalanche zones—

[(A) with a high frequency or severity of avalanches; or

[(B) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

[(f) SURPLUS ORDINANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

[(1) in subparagraph (A), by striking ''or'' after the semicolon at the end;

[(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

[(3) by adding at the end the following:

[''(C) in the case of surplus artillery ordinance that is suitable for avalanche control purposes, to a user of such ordinance.''.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to carry out this Act $15,000,000 for each of fiscal years 2006 through 2010.]

SEC. 1. SHORT TITLE.

This Act may be cited as the ''Federal Land Recreational Visitor Protection Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term ''program'' means the avalanche protection program established under section 3(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. AVALANCHE PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of the Interior, shall establish a coordinated avalanche protection program—

(1) to provide early identification of the potential for avalanches that could endanger the safety of recreational users of public land, including skiers, backpackers, snowboarders, and campers and visitors to units of the National Park System; and

(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

(b) COORDINATION.—

(1) IN GENERAL.—In developing and implementing the program, the Secretary shall consult with the Secretary of the Interior, and coordinate the program, to ensure adequate levels of protection for recreational users of public land under the jurisdiction of the Secretary of the Interior, including units of the National Park System, National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

(2) RESOURCES.—In carrying out this section, the Secretary and the Secretary of the Interior—

(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

(B) may use such other resources as the Secretary has available in the development and implementation of the program.

(c) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior shall jointly establish an advisory committee to assist in the development and implementation of the program.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

(B) REPRESENTATIVES.—The membership of the Advisory Committee shall include representatives of—

(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

(d) CENTRAL DEPOSITORY.—The Secretary, the Secretary of the Interior, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior may make grants to carry out projects and activities under the program—

(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

(i) units of the National Park System; and

(ii) other Federal land used for recreation purposes; and

(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

(2) PRIORITY.—For each fiscal year for which funds are made available under section 4, the Secretary shall give priority to projects and activities carried out in avalanche zones—

(A) with a high frequency or severity of avalanches; or

(B) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

(f) SURPLUS ORDNANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) in the case of surplus artillery ordnance that is suitable for avalanche control purposes, to a user of such ordnance.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $15,000,000 for each of fiscal years 2006 through 2010.

Amend the title so as to read: ''A bill to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.''.

The Committee amendment in the nature of a substitute was agreed to.

The bill (S. 225), as amended, was read the third time and passed.

OJITO WILDERNESS ACT

The Senate proceeded to consider the bill (S. 156) to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 156

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ojito Wilderness Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Ojito Wilderness Act'' and dated October 1, 2004.

(2) PUEBLO.—The term ''Pueblo'' means the Pueblo of Zia.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of New Mexico.

SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.

(a) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which [comprise] *comprises* approximately 11,183 acres, as generally depicted on the map, and which shall be known as the ''Ojito Wilderness''.

(b) MAP AND LEGAL DESCRIPTION.—The map and a legal description of the wilderness area designated by this Act shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) MANAGEMENT OF WILDERNESS.—Subject to valid existing rights, the wilderness area designated by this Act shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the wilderness area designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) MANAGEMENT OF NEWLY ACQUIRED LAND.—If acquired by the United States, the following land shall become part of the wilderness area designated by this Act and shall be managed in accordance with this Act and other applicable law:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the wilderness area designated by this Act.

(e) MANAGEMENT OF LANDS TO BE ADDED.—The lands generally depicted on the map as ''Lands to be Added'' shall become part of the wilderness area designated by this Act if the United States acquires, or alternative adequate access is available to, section 12 of township 15 north, range 01 west, *New Mexico Principal Meridian*.

(f) RELEASE.—The Congress hereby finds and directs that the lands generally depicted on the map as ''Lands to be Released'' have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) GRAZING.—Grazing of livestock in the wilderness area designated by this Act, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101–405).

(h) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(i) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as wilderness by this Act is arid in nature and is generally not suitable for use or development of new water resource facilities; and

(B) because of the unique nature and hydrology of the desert land designated as wilderness by this Act, it is possible to provide

for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this Act;

(B) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) STATE WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this subsection, the term ''water resource facility''—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this Act.

(j) WITHDRAWAL.—Subject to valid existing rights, the wilderness area designated by this Act, the lands to be added under subsection (e), and lands identified on the map as the ''BLM Lands Authorized to be Acquired by the Pueblo of Zia'' are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(k) EXCHANGE.—Not later than 3 years after the date of enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the wilderness area designated by this Act.

SEC. 4. LAND HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as ''BLM Lands Authorized to be Acquired by the Pueblo of Zia'' shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo's Reservation.

(b) DESCRIPTION OF LANDS.—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) CONSIDERATION.—

(1) IN GENERAL.—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) APPRAISAL.—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) AVAILABILITY.—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) PUBLIC ACCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided,* That the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

(2) CONDITIONS.—Except as provided in ⌊subsection (f)⌋ *subsection (e)*—

(A) the land conveyed under subsection (a) shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity; and

(B) the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) RIGHTS OF WAY.—

(1) EXISTING RIGHTS OF WAY.—Nothing in this section shall affect—

(A) any validly issued right-of-way or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) NEW RIGHTS OF WAY AND RENEWALS.—

(A) IN GENERAL.—The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired under subsection (a) that is designated as the ''Rights-of-Way corridor #1'' in the Rio Puerco Resource Management Plan that is in effect on the date of the grant.

(B) ADMINISTRATION.—Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan that is in effect on the date of issuance or renewal of the right-of-way.

(f) JUDICIAL RELIEF.—

(1) IN GENERAL.—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) SOVEREIGN IMMUNITY.—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) EFFECT.—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

The committee amendments were agreed to.

The bill (S. 156), as amended, was read the third time and passed, as follows:

S. 156

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ojito Wilderness Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Ojito Wilderness Act'' and dated October 1, 2004.

(2) PUEBLO.—The term ''Pueblo'' means the Pueblo of Zia.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of New Mexico.

SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.

(a) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which comprises approximately 11,183 acres, as generally depicted on the map, and which shall be known as the ''Ojito Wilderness''.

(b) MAP AND LEGAL DESCRIPTION.—The map and a legal description of the wilderness area designated by this Act shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) MANAGEMENT OF WILDERNESS.—Subject to valid existing rights, the wilderness area designated by this Act shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the wilderness area designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) MANAGEMENT OF NEWLY ACQUIRED LAND.—If acquired by the United States, the following land shall become part of the wilderness area designated by this Act and shall be managed in accordance with this Act and other applicable law:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the wilderness area designated by this Act.

(e) MANAGEMENT OF LANDS TO BE ADDED.—The lands generally depicted on the map as ''Lands to be Added'' shall become part of the wilderness area designated by this Act if the United States acquires, or alternative adequate access is available to, section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(f) RELEASE.—The Congress hereby finds and directs that the lands generally depicted on the map as ''Lands to be Released'' have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) GRAZING.—Grazing of livestock in the wilderness area designated by this Act, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101–405).

(h) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(i) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as wilderness by this Act is arid in nature and is generally not suitable for use or development of new water resource facilities; and

(B) because of the unique nature and hydrology of the desert land designated as wilderness by this Act, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this Act;

(B) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) STATE WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this subsection, the term ''water resource facility''—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this Act.

(j) WITHDRAWAL.—Subject to valid existing rights, the wilderness area designated by this Act, the lands to be added under subsection (e), and lands identified on the map as the ''BLM Lands Authorized to be Acquired by the Pueblo of Zia'' are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(k) EXCHANGE.—Not later than 3 years after the date of enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the wilderness area designated by this Act.

SEC. 4. LAND HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as ''BLM Lands Authorized to be Acquired by the Pueblo of Zia'' shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo's Reservation.

(b) DESCRIPTION OF LANDS.—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) CONSIDERATION.—

(1) IN GENERAL.—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) APPRAISAL.—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) AVAILABILITY.—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) PUBLIC ACCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided,* That the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

(2) CONDITIONS.—Except as provided in subsection (e)—

(A) the land conveyed under subsection (a) shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity; and

(B) the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) RIGHTS OF WAY.—

(1) EXISTING RIGHTS OF WAY.—Nothing in this section shall affect—

(A) any validly issued right-of-way or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) NEW RIGHTS OF WAY AND RENEWALS.—

(A) IN GENERAL.—The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired under subsection (a) that is designated as the ''Rights-of-Way corridor #1'' in the Rio Puerco Resource Management Plan that is in effect on the date of the grant.

(B) ADMINISTRATION.—Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan that is in effect on the date of issuance or renewal of the right-of-way.

(f) JUDICIAL RELIEF.—

(1) IN GENERAL.—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) SOVEREIGN IMMUNITY.—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) EFFECT.—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

NEW MEXICO WATER PLANNING ASSISTANCE ACT

The bill (S. 178) to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes, was read the third time and passed, as follows:

S. 178

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 ''New Mexico Water Planning Assistance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting

through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term ''State'' means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2006 through 2010.

UNITED STATES-MEXICO TRANSBOUNDARY AQUIFER ASSESSMENT ACT

The Senate proceeded to consider the bill (S. 214) to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 214

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States-Mexico Transboundary Aquifer Assessment Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

SEC. 3. DEFINITIONS.

In this Act:

(1) AQUIFER.—The term ''aquifer'' means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) BORDER STATE.—The term ''Border State'' means each of the States of Arizona, California, New Mexico, and Texas.

(3) INDIAN TRIBE.—The term ''Indian tribe'' means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term ''priority transboundary aquifer'' means a transboundary aquifer that has been designated for study and analysis under the program.

(5) PROGRAM.—The term ''program'' means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) RESERVATION.—The term ''reservation'' means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) TRANSBOUNDARY AQUIFER.—The term ''transboundary aquifer'' means an aquifer that underlies the boundary between the United States and Mexico.

(9) TRI-REGIONAL PLANNING GROUP.—The term ''Tri-Regional Planning Group'' means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) WATER RESOURCES RESEARCH INSTITUTES.—The term ''water resources research institutes'' means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used;

(III) the susceptibility of the transboundary aquifer to contamination; and

(IV) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico; and

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico.

(2) ADDITIONAL AQUIFERS.—The Secretary shall, using the criteria under subsection (b)(1)(A)(ii), evaluate and designate additional priority transboundary aquifers.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Border State entities to carry out the program.

SEC. 5. IMPLEMENTATION OF PROGRAM.

(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States;

(2) any affected Indian tribes; and

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Border State water resource agencies that have jurisdiction over the aquifer.

(c) STUDY PLANS; COST ESTIMATES.—

(1) IN GENERAL.—The Secretary shall work closely with appropriate Border State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

SEC. 6. EFFECT.

Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Border State with respect to managing surface or groundwater resources in the Border State; or

(2) the water rights of any person or entity using water from a transboundary aquifer.

SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2006 through 2015.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

The amendment (No. 1585) was agreed to, as follows:

(Purpose: To designate the San Pedro aquifers as priority transboundary aquifers)

On page 7, strike lines 15 through 19 and insert the following:

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

The bill (S. 214), as amended, was read the third time and passed, as follows:

S. 214

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States-Mexico Transboundary Aquifer Assessment Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

SEC. 3. DEFINITIONS.

In this Act:

(1) AQUIFER.—The term ''aquifer'' means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) BORDER STATE.—The term ''Border State'' means each of the States of Arizona, California, New Mexico, and Texas.

(3) INDIAN TRIBE.—The term ''Indian tribe'' means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term ''priority transboundary aquifer'' means a transboundary aquifer that has been designated for study and analysis under the program.

(5) PROGRAM.—The term ''program'' means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) RESERVATION.—The term ''reservation'' means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) TRANSBOUNDARY AQUIFER.—The term ''transboundary aquifer'' means an aquifer that underlies the boundary between the United States and Mexico.

(9) TRI-REGIONAL PLANNING GROUP.—The term ''Tri-Regional Planning Group'' means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) WATER RESOURCES RESEARCH INSTITUTES.—The term ''water resources research institutes'' means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used;

(III) the susceptibility of the transboundary aquifer to contamination; and

(IV) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

(2) ADDITIONAL AQUIFERS.—The Secretary shall, using the criteria under subsection (b)(1)(A)(ii), evaluate and designate additional priority transboundary aquifers.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Border State entities to carry out the program.

SEC. 5. IMPLEMENTATION OF PROGRAM.

(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States;

(2) any affected Indian tribes; and

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Border State water resource agencies that have jurisdiction over the aquifer.

(c) STUDY PLANS; COST ESTIMATES.—

(1) IN GENERAL.—The Secretary shall work closely with appropriate Border State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

SEC. 6. EFFECT.

Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Border State with respect to managing surface or groundwater resources in the Border State; or

(2) the water rights of any person or entity using water from a transboundary aquifer.

SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2006 through 2015.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION ACT

The bill (S. 229) to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes, was read the third time and passed, as follows:

S. 229

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 ''Albuquerque Biological Park Title Clarification Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach or San Gabriel Park to the City, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the City of Albuquerque, New Mexico.

(2) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms ''Middle Rio Grande Conservancy District'' and ''MRGCD'' mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(3) MIDDLE RIO GRANDE PROJECT.—The term ''Middle Rio Grande Project'' means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80–858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81–516; 64 Stat. 170).

(4) SAN GABRIEL PARK.—The term ''San Gabriel Park'' means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(5) TINGLEY BEACH.—The term ''Tingley Beach'' means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. CLARIFICATION OF PROPERTY INTEREST.

(a) REQUIRED ACTION.—The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach and San Gabriel Park to the City.

(b) TIMING.—The Secretary shall carry out the action in subsection (a) as soon as practicable after the date of enactment of this title and in accordance with all applicable law.

(c) NO ADDITIONAL PAYMENT.—The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park and Tingley Beach.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) IN GENERAL.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(b) ONGOING LITIGATION.—Nothing contained in this Act shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99–1320 JP/RLP–ACE, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2005

The bill (S. 55) to adjust the boundary of Rocky Mountain National Park in the State of Colorado was read the third time and passed, as follows:

S. 55

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 ''Rocky Mountain National Park Boundary Adjustment Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) FEDERAL PARCEL.—The term ''Federal parcel'' means the parcel of approximately 70 acres of Federal land near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(2) MAP.—The term ''map'' means the map numbered 121/80,154, dated June 2004.

(3) NON-FEDERAL PARCELS.—The term ''non-Federal parcels'' means the 3 parcels of non-Federal land comprising approximately 5.9 acres that are located near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(4) PARK.—The term ''Park'' means Rocky Mountain National Park in the State of Colorado.

SEC. 3. ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) EXCHANGE OF LAND.—

(1) IN GENERAL.—The Secretary shall accept an offer to convey all right, title, and interest in and to the non-Federal parcels to the United States in exchange for the Federal parcel.

(2) CONVEYANCE.—Not later than 60 days after the date on which the Secretary receives an offer under paragraph (1), the Secretary shall convey the Federal parcel in exchange for the non-Federal parcels.

(3) CONSERVATION EASEMENT.—As a condition of the exchange of land under paragraph (2), the Secretary shall reserve a perpetual

easement to the Federal parcel for the purposes of protecting, preserving, and enhancing the conservation values of the Federal parcel.

(b) BOUNDARY ADJUSTMENT; MANAGEMENT OF LAND.—On acquisition of the non-Federal parcels under subsection (a)(2), the Secretary shall—

(1) adjust the boundary of the Park to reflect the acquisition of the non-Federal parcels; and

(2) manage the non-Federal parcels as part of the Park, in accordance with any laws (including regulations) applicable to the Park.

WIND CAVE NATIONAL PARK BOUNDARY REVISION ACT OF 2005

The bill (S. 276) to revise the boundary of the Wind Cave National Park in the State of South Dakota was read the third time and passed, as follows:

S. 276

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 ''Wind Cave National Park Boundary Revision Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Wind Cave National Park Boundary Revision'', numbered 108/80,030, and dated June 2002.

(2) PARK.—The term ''Park'' means the Wind Cave National Park in the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as ''Bureau of Land Management land''.

SEC. 5. GRAZING.

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

UPPER CONNECTICUT RIVER PARTNERSHIP ACT

The Senate proceeded to consider the bill (S. 301) to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont, which had been reported from the Committee on Energy and Natural Resources, with amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 301

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 ''Upper Connecticut River Partnership Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102–212);

(4) the demonstrated interest in stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bistate Connecticut River Scenic Byway, which will foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the ''Connecticut River Joint Commissions''—

(A) have worked together since 1989; and

(B) serve as the focal point for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bistate local river subcommittees appointed to represent riverfront towns, produced the 6-volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) this year, by Joint Legislative Resolution, the legislatures have requested that Congress provide for continuation of cooperative partnerships and support for the Connecticut River Joint Commissions from the New England Federal Partners for Natural Resources, a consortium of Federal agencies, in carrying out recommendations of the Connecticut River Corridor Management Plan;

(9) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and United States Fish and Wildlife Service; and

(10) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of in-kind contributions of services or materials.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $1,000,000 [for each fiscal year] *for each of fiscal years 2006 through 2015.*

The committee amendment was agreed to.

The bill (S. 301), as amended, was read a third time and passed, as follows:

S. 301

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 ''Upper Connecticut River Partnership Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New

England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102–212);

(4) the demonstrated interest in stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bistate Connecticut River Scenic Byway, which will foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the ''Connecticut River Joint Commissions''—

(A) have worked together since 1989; and

(B) serve as the focal point for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bistate local river subcommittees appointed to represent riverfront towns, produced the 6-volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) this year, by Joint Legislative Resolution, the legislatures have requested that Congress provide for continuation of cooperative partnerships and support for the Connecticut River Joint Commissions from the New England Federal Partners for Natural Resources, a consortium of Federal agencies, in carrying out recommendations of the Connecticut River Corridor Management Plan;

(9) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and United States Fish and Wildlife Service; and

(10) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of in-kind contributions of services or materials.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $1,000,000 for each fiscal year for each of fiscal years 2006 through 2015.

BUFFALO SOLDIERS COMMEMORATION ACT OF 2005

The Senate proceeded to consider the bill (S. 205) to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic]

S. 205

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Buffalo Soldiers [commemoration] *Commemoration* Act of 2005''.

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) AUTHORIZATION.—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) COOPERATIVE AGREEMENTS.—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

(d) MAINTENANCE AGREEMENT.—Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.

SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) ESTABLISHMENT.—The Commission shall maintain an escrow account (''account'') to pay expenses incurred in constructing the memorial.

(b) DEPOSITS INTO THE ACCOUNT.—The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.

(c) USE OF ACCOUNT.—Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendment was agreed to.

The bill (S. 205), as amended, was read the third time and passed, as follows:

S. 205

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Buffalo Soldiers Commemoration Act of 2005''.

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) AUTHORIZATION.—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) COOPERATIVE AGREEMENTS.—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

(d) MAINTENANCE AGREEMENT.—Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.

SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) ESTABLISHMENT.—The Commission shall maintain an escrow account (''account'') to pay expenses incurred in constructing the memorial.

(b) DEPOSITS INTO THE ACCOUNT.—The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.

(c) USE OF ACCOUNT.—Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT ACT OF 2005

The bill (S. 207) to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes, was read the third time and passed, as follows:

S. 207

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Jean Lafitte National Historical Park and Preserve Boundary Adjustment Act of 2005''.

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Section 901 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230) is amended in the second sentence by striking ''twenty thousand acres generally depicted on the map entitled 'Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve' numbered 90,000B and dated April 1978,'' and inserting ''23,000 acres generally depicted on the map entitled 'Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve', numbered 467/80100, and dated August 2002,''.

(b) ACQUISITION OF LAND.—Section 902 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230a) is amended—

(1) in subsection (a)—

(A) by striking ''(a) Within the'' and all that follows through the first sentence and inserting the following:

''(a) IN GENERAL.—

''(1) BARATARIA PRESERVE UNIT.—

''(A) IN GENERAL.—The Secretary may acquire any land, water, and interests in land and water within the boundary of the Barataria Preserve Unit, as depicted on the map described in section 901, by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

''(B) LIMITATIONS.—

''(i) IN GENERAL.—With respect to the areas on the map identified as 'Bayou aux Carpes Addition' and 'CIT Tract Addition'—

''(I) any Federal land acquired in the areas shall be transferred without consideration to the administrative jurisdiction of the National Park Service; and

''(II) any private land in the areas may be acquired by the Secretary only with the consent of the owner of the land.

''(ii) EASEMENTS.—Any Federal land in the area identified on the map as 'CIT Tract Addition' that is transferred under clause (i)(I) shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.'';

(B) in the second sentence, by striking ''The Secretary may also'' and inserting the following:

''(2) FRENCH QUARTER.—The Secretary may'';

(C) in the third sentence, by striking ''Lands, waters, and interests therein'' and inserting the following:

''(3) ACQUISITION OF STATE LAND.—Land, water, and interests in land and water''; and

(D) in the fourth sentence, by striking ''In acquiring'' and inserting the following:

''(4) ACQUISITION OF OIL AND GAS RIGHTS.—In acquiring'';

(2) by striking subsections (b) through (f) and inserting the following:

''(b) RESOURCE PROTECTION.—With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

''(1) fresh water drainage patterns;

''(2) vegetative cover;

''(3) the integrity of ecological and biological systems; and

''(4) water and air quality.''; and

(3) by redesignating subsection (g) as subsection (c).

(c) HUNTING, FISHING, AND TRAPPING.—Section 905 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230d) is amended in the first sentence by striking ''within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he'' and inserting ''the Secretary''.

(d) ADMINISTRATION.—Section 906 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230e) is amended—

(1) by striking the first sentence; and

(2) in the second sentence, by striking ''Pending such establishment and thereafter the'' and inserting ''The''.

SEC. 3. REFERENCES IN LAW.

(a) IN GENERAL.—Any reference in a law (including regulations), map, document, paper, or other record of the United States—

(1) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

(2) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.

(b) CONFORMING AMENDMENTS.—Title IX of the National Parks and Recreation Act of 1978 (16 U.S.C. 230 et seq.) is amended—

(1) by striking ''Barataria Marsh Unit'' each place it appears and inserting ''Barataria Preserve Unit''; and

(2) by striking ''Jean Lafitte National Historical Park'' each place it appears and inserting ''Jean Lafitte National Historical Park and Preserve''.

NATIONAL HERITAGE PARTNERSHIP ACT

The Senate proceeded to consider the bill (S. 243) to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

S. 243

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Heritage Partnership Act''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means an area designated by Congress that is nationally important to the heritage of the United States and meets the criteria established under section 4(a).

(4) NATIONAL IMPORTANCE.—The term ''national importance'' means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROGRAM.—The term ''program'' means the National Heritage Areas program established under section 3(a).

(6) PROPOSED NATIONAL HERITAGE AREA.—The term ''proposed National Heritage Area'' means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) STUDY.—The term ''study'' means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) DUTIES.—Under the program, the Secretary shall—

(1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

SEC. 4. STUDIES.

(a) CRITERIA.—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) TRANSMITTAL.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

(e) DESIGNATION.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

SEC. 5. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 6. LOCAL COORDINATING ENTITIES.

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) STUDIES.—There is authorized to be appropriated to conduct and review studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

The amendment (No. 1586) was agreed to as follows:

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 243), as amended, was read the third time and passed.

WILD SKY WILDERNESS ACT OF 2005

The Senate proceeded to consider the bill (S. 152) to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

[Strike the parts shown in black bracket and insert the parts shown in italic.]

S. 152

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 ''Wild Sky Wilderness Act of 2005''.

SEC. 2. ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following Federal lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System: certain lands which comprise approximately 106,000 acres, as generally depicted on a map entitled ''Wild Sky Wilderness Proposal'', ''Map #1'', and dated January 7, 2003, which shall be known [as the Wild Sky Wilderness.] *as the ''Wild Sky Wilderness''*.

(b) MAPS AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description for the wilderness area designated under this Act with the Committee on Energy and Natural Resources of the [United States] Senate and the Committee on Resources of the [United States] House of Representatives. The map and description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors in the legal description and map. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. ADMINISTRATION PROVISIONS.

(a) IN GENERAL.—

(1) Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(2) To fulfill the purposes of this Act and the Wilderness Act and to achieve administrative efficiencies, the Secretary of Agriculture may manage the area designated by this Act as a comprehensive part of the larger complex of adjacent and nearby wilderness areas.

(b) NEW TRAILS.—

(1) The Secretary of Agriculture shall consult with interested parties and shall establish a trail plan for Forest Service lands in order to [develop:] *develop*—

(A) a system of hiking and equestrian trails within the wilderness designated by this Act in a manner consistent with the Wilderness Act[, Public Law 88–577] (16 U.S.C. 1131 et seq.); and

(B) a system of trails adjacent to or to provide access to the wilderness designated by this Act.

(2) Within two years after the date of enactment of this Act, the Secretary of Agriculture shall complete a report on the implementation of the trail plan required under this Act. This report shall include the identification of priority [trail] *trails* for development.

(c) REPEATER SITE.—Within the Wild Sky Wilderness, the Secretary of Agriculture is authorized to use helicopter access to construct and maintain a joint Forest Service

and Snohomish County telecommunications repeater site, in compliance with a Forest Service approved communications site plan, for the purposes of improving communications for safety, health, and emergency services.

(d) FLOAT PLANE ACCESS.—As provided by section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the use of floatplanes on Lake Isabel, where such use has already become established, shall be permitted to continue subject to such reasonable restrictions as the Secretary of Agriculture determines to be desirable.

(e) EVERGREEN MOUNTAIN LOOKOUT.—The designation under this Act shall not preclude the operation and maintenance of the existing Evergreen Mountain Lookout in the same manner and degree in which the operation and maintenance of such lookout was occurring as of the date of enactment of this Act.

SEC. 4. AUTHORIZATION FOR LAND ACQUISITION.

(a) IN GENERAL.—The Secretary of Agriculture is authorized to acquire lands and interests therein, by purchase, donation, or exchange, and shall give priority consideration to those lands identified as ''Priority Acquisition Lands'' on the map described in section 2(a)[(1)]. The boundaries of the Mt. Baker-Snoqualmie National Forest and the Wild Sky Wilderness shall be adjusted to encompass any lands acquired pursuant to this section.

(b) ACCESS.—Consistent with section 5(a) of the Wilderness Act [(Public Law 88–577;] 16 U.S.C. 1134(a)), the Secretary of Agriculture shall ensure adequate access to private inholdings within the Wild Sky Wilderness.

(c) APPRAISAL.—Valuation of private lands shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area as a result of this Act.

SEC. 5. LAND EXCHANGES.

The Secretary of Agriculture shall exchange lands and interests in lands, as generally depicted on a [map entitled Chelan County Public Utility District Exchange and] *map entitled ''Chelan County Public Utility District Exchange'' and* dated May 22, 2002, with the Chelan County Public Utility District in accordance with the following provisions:

(1) If the Chelan County Public Utility District, within ninety days after the date of enactment of this Act, offers to the Secretary of Agriculture approximately 371.8 acres within the Mt. Baker-Snoqualmie National Forest in the State of Washington, the Secretary shall accept such lands.

(2) Upon acceptance of title by the Secretary of Agriculture to such lands and interests therein, the Secretary of Agriculture shall convey to the Chelan County Public Utility District a permanent easement, including helicopter access, consistent with such levels as used as of date of enactment, to maintain an existing telemetry site to monitor snow pack on 1.82 acres on the Wenatchee National Forest in the State of Washington.

(3) The exchange directed by this Act shall be consummated if Chelan County Public Utility District conveys title acceptable to the Secretary and provided there is no hazardous material on the site, which is objectionable to the Secretary.

(4) In the event Chelan County Public Utility District determines there is no longer a need to maintain a telemetry site to monitor the snow pack for calculating expected runoff into the Lake Chelan hydroelectric project and the hydroelectric projects in the Columbia River Basin, the Secretary shall be notified in writing and the easement shall be extinguished and all rights conveyed by this exchange shall revert to the United States.

The committee amendments were agreed to.

The bill (S. 152), as amended, was read the third time and passed, as follows:

S. 152

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 ''Wild Sky Wilderness Act of 2005''.

SEC. 2. ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following Federal lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System: certain lands which comprise approximately 106,000 acres, as generally depicted on a map entitled ''Wild Sky Wilderness Proposal'', ''Map #1'', and dated January 7, 2003, which shall be known as the ''Wild Sky Wilderness''.

(b) MAPS AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description for the wilderness area designated under this Act with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The map and description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors in the legal description and map. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. ADMINISTRATION PROVISIONS.

(a) IN GENERAL.—

(1) Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(2) To fulfill the purposes of this Act and the Wilderness Act and to achieve administrative efficiencies, the Secretary of Agriculture may manage the area designated by this Act as a comprehensive part of the larger complex of adjacent and nearby wilderness areas.

(b) NEW TRAILS.—

(1) The Secretary of Agriculture shall consult with interested parties and shall establish a trail plan for Forest Service lands in order to develop—

(A) a system of hiking and equestrian trails within the wilderness designated by this Act in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.); and

(B) a system of trails adjacent to or to provide access to the wilderness designated by this Act.

(2) Within two years after the date of enactment of this Act, the Secretary of Agriculture shall complete a report on the implementation of the trail plan required under this Act. This report shall include the identification of priority trail for development.

(c) REPEATER SITE.—Within the Wild Sky Wilderness, the Secretary of Agriculture is authorized to use helicopter access to construct and maintain a joint Forest Service and Snohomish County telecommunications repeater site, in compliance with a Forest Service approved communications site plan, for the purposes of improving communications for safety, health, and emergency services.

(d) FLOAT PLANE ACCESS.—As provided by section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the use of floatplanes on Lake Isabel, where such use has already become established, shall be permitted to continue subject to such reasonable restrictions as the Secretary of Agriculture determines to be desirable.

(e) EVERGREEN MOUNTAIN LOOKOUT.—The designation under this Act shall not preclude the operation and maintenance of the existing Evergreen Mountain Lookout in the same manner and degree in which the operation and maintenance of such lookout was occurring as of the date of enactment of this Act.

SEC. 4. AUTHORIZATION FOR LAND ACQUISITION.

(a) IN GENERAL.—The Secretary of Agriculture is authorized to acquire lands and interests therein, by purchase, donation, or exchange, and shall give priority consideration to those lands identified as ''Priority Acquisition Lands'' on the map described in section 2(a). The boundaries of the Mt. Baker-Snoqualmie National Forest and the Wild Sky Wilderness shall be adjusted to encompass any lands acquired pursuant to this section.

(b) ACCESS.—Consistent with section 5(a) of the Wilderness Act 16 U.S.C. 1134(a)), the Secretary of Agriculture shall ensure adequate access to private inholdings within the Wild Sky Wilderness.

(c) APPRAISAL.—Valuation of private lands shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area as a result of this Act.

SEC. 5. LAND EXCHANGES.

The Secretary of Agriculture shall exchange lands and interests in lands, as generally depicted on a map entitled ''Chelan County Public Utility District Exchange'' and dated May 22, 2002, with the Chelan County Public Utility District in accordance with the following provisions:

(1) If the Chelan County Public Utility District, within ninety days after the date of enactment of this Act, offers to the Secretary of Agriculture approximately 371.8 acres within the Mt. Baker-Snoqualmie National Forest in the State of Washington, the Secretary shall accept such lands.

(2) Upon acceptance of title by the Secretary of Agriculture to such lands and interests therein, the Secretary of Agriculture shall convey to the Chelan County Public Utility District a permanent easement, including helicopter access, consistent with such levels as used as of date of enactment, to maintain an existing telemetry site to monitor snow pack on 1.82 acres on the Wenatchee National Forest in the State of Washington.

(3) The exchange directed by this Act shall be consummated if Chelan County Public Utility District conveys title acceptable to the Secretary and provided there is no hazardous material on the site, which is objectionable to the Secretary.

(4) In the event Chelan County Public Utility District determines there is no longer a need to maintain a telemetry site to monitor the snow pack for calculating expected runoff into the Lake Chelan hydroelectric project and the hydroelectric projects in the Columbia River Basin, the Secretary shall be notified in writing and the easement shall be extinguished and all rights conveyed by this exchange shall revert to the United States.

EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF A HYDROELECTRIC PLANT IN THE STATE OF ALASKA

The bill (S. 176) to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska was read the third time and passed, as follows:

S. 176

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

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11480, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

WALLOWA LAKE DAM REHABILITATION AND WATER MANAGEMENT ACT OF 2005

The bill (S. 231) to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes, was read the third time and passed, as follows:

S. 231

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 ''Wallowa Lake Dam Rehabilitation and Water Management Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ASSOCIATED DITCH COMPANIES, INCORPORATED.—The term ''Associated Ditch Companies, Incorporated'' means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) PHASE II AND PHASE III OF THE WALLOWA VALLEY WATER MANAGEMENT PLAN.—The term ''Phase II and Phase III of the Wallowa Valley Water Management Plan'' means the Phase II program for fish passage improvements and water conservation measures, and the Phase III program for implementation of water exchange infrastructure, developed for the Wallowa River watershed, as contained in the document entitled ''Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement'', dated February 2001, and on file with the Bureau of Reclamation.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) WALLOWA LAKE DAM REHABILITATION PROGRAM.—The term ''Wallowa Lake Dam Rehabilitation Program'' means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, ''Phase I Dam Assessment and Preliminary Engineering Design'', dated December 2002, and on file with the Bureau of Reclamation.

SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.

(a) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program and Phase II and Phase III of the Wallowa Valley Water Management Plan.

(b) CONDITIONS.—As a condition of providing funds under subsection (a), the Secretary shall ensure that—

(1) the Wallowa Lake Dam Rehabilitation Program meets the standards of the dam safety program of the State of Oregon;

(2) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with funds provided to it under this Act; and

(3) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this Act.

(c) COST SHARING.—

(1) IN GENERAL.—The Federal share of the costs of activities authorized under this Act shall not exceed 80 percent.

(2) EXCLUSIONS FROM FEDERAL SHARE.—There shall not be credited against the Federal share of such costs—

(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(B) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(d) COMPLIANCE WITH STATE LAW.—In carrying out this Act, the Secretary shall comply with otherwise applicable State water law.

(e) PROHIBITION ON HOLDING TITLE.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act.

(f) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

(g) OWNERSHIP AND OPERATION OF FISH PASSAGE FACILITY.—Any facility constructed using Federal funds authorized by this Act located at Wallowa Lake Dam for trapping and transportation of migratory adult salmon may be owned and operated only by the Nez Perce Tribe.

SEC. 4. RELATIONSHIP TO OTHER LAW.

An activity funded under this Act shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to the pay the Federal share of the costs of activities authorized under this Act $25,600,000.

FISH PASSAGE AND SCREENING FACILITIES AT NON-FEDERAL WATER PROJECTS

The bill (S. 232) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes, was read the third time and passed, as follows:

S. 232

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

SECTION 1. DEFINITIONS.

As used in this Act—

(1) ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation;

(2) ''Reclamation'' means the Bureau of Reclamation, United States Department of the Interior;

(3) ''Fish passage and screening facilities'' means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works or strategies which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

(4) ''Federal reclamation project'' means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

(5) ''Non-Federal party'' means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities (both profit and non-profit organizations), and private individuals;

(6) ''Snake River Basin'' means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River;

(7) ''Columbia River Basin'' means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary; and

(8) ''Habitat improvements'' means work to improve habitat for aquatic plants and animals within a currently existing stream channel below the ordinary high water mark, including stream reconfiguration to rehabilitate and protect the natural function of streambeds, and riverine wetland construction and protection.

SEC. 2. AUTHORIZATION.

(a) IN GENERAL.—Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities or habitat improvements at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when the Secretary determines that such facilities would enable Reclamation to meet its obligations under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding the Federal reclamation projects located in the Snake River Basin.

(b) PROHIBITION OF ACQUISITION OF LAND FOR HABITAT IMPROVEMENTS.—Notwithstanding subsection (a), nothing in this Act authorizes the acquisition of land for habitat improvements.

SEC. 3. LIMITATIONS.

(a) WRITTEN AGREEMENT.—The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects or habitat improvements located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non-Federal party or parties who own, operate, or maintain the project, or any associated lands involved.

(b) FEDERAL SHARE.—The Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements shall be not more than 75 percent.

(c) NON-FEDERAL SHARE.—

(1) Except as provided in paragraph (4), a written agreement entered into under subsection (a) shall provide that the non-Federal party agrees to pay the non-Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements.

(2) The non-Federal share may be provided in the form of cash or in-kind services.

(3) The Secretary shall—

(A) require the non-Federal party to provide appropriate documentation of any in-kind services provided; and

(B) determine the value of the in-kind services.

(4) The requirements of this subsection shall not apply to Indian tribes.

(d) GRANT AND COOPERATIVE AGREEMENTS.—Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with chapter 63 of title 31, United States Code.

(e) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities or habitat improvements, define the obligations of the Secretary and the non-Federal party, and ensure compliance with this Act and all other applicable Federal, State, and local laws.

(f) RIGHTS AND DUTIES OF NON-FEDERAL PARTIES.—All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. The operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

SEC. 4. OTHER REQUIREMENTS.

(a) PERMITS.—The Secretary may assist a non-Federal party who owns, operates, or maintains a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

(b) FEDERAL LAW.—In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to activities associated with the construction of a fish passage and screening facility or habitat improvements.

(c) STATE WATER LAW.—

(1) In carrying out this Act, the Secretary shall comply with any applicable State water laws.

(2) Nothing in this Act affects any water or water-related right of a State, an Indian tribe, or any other entity or person.

(d) REQUIRED COORDINATION.—The Secretary shall coordinate with the Northwest Power and Conservation Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.

(a) IN GENERAL.—The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

(b) NONREIMBURSABLE AND NONRETURNABLE EXPENDITURES.—Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and non-returnable to the United States Treasury.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.

EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PLANT IN THE STATE OF WYOMING

The bill (S. 244) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, was read the third and passed, as follows:

S. 244

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

SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

HAWAII WATER RESOURCES ACT OF 2005

The Senate proceeded to consider the bill (S. 264), to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 264

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 ''Hawaii Water Resources Act of 2005''.

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

''SEC. 1637. HAWAII RECLAMATION PROJECTS.

''(a) AUTHORIZATION.—The Secretary may—

''(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

''(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

''(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

''(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1636 the following:

''Sec. 1637. Hawaii reclamation projects.''.

The amendment (No. 1587) was agreed to, as follows:

(Purpose: To make technical corrections)

On page 2, strike lines 1 through 5 and insert the following:

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

''SEC. 1638. HAWAII RECLAMATION PROJECTS.

On page 3, strike line 13 and all that follows through the matter following line 14 and insert the following:

is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

''Sec. 1637. Williamson County, Texas, Water Recylcing and Reuse Project.

''Sec. 1638. Hawaii reclamation projects.''.

The bill (S. 264), as amended, was read the third time and passed, as follows:

S. 264

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 ''Hawaii Water Resources Act of 2005''.

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

''SEC. 1638. HAWAII RECLAMATION PROJECTS.

''(a) AUTHORIZATION.—The Secretary may—

''(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

''(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

''(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

''(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

''Sec. 1637. Williamson County, Texas, Water Recylcing and Reuse Project.
''Sec. 1638. Hawaii reclamation projects.''.

CARIBBEAN NATIONAL FOREST ACT OF 2005

The Senate proceeded to consider the bill (S. 272) to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System, which had been reported from the Committee on Energy and Natural Resources, with amendments and an amendment to the title, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 272

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Caribbean National Forest Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map dated April 13, [2004] *2004,* and entitled ''El Toro Proposed Wilderness Area''.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. [1113] *1131* et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico [described in] *as generally depicted on* the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land [described in] *generally depicted* on the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

Amend the title so as to read: ''A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.''.

The committee amendments were agreed to.

The amendment to the title was agreed to.

The bill (S. 272), as amended, was agreed to, as follows:

S. 272

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Caribbean National Forest Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map dated April 13, 2004, and entitled ''El Toro Proposed Wilderness Area''.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico as generally depicted on the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land generally depicted on the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

PALEONTOLOGICAL RESOURCES PRESERVATION ACT

The Senate proceeded to consider the bill (S. 263) to provide for the protection of paleontological resources on Federal lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 263

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 ''Paleontological Resources Preservation Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms ''reasonable amount'', ''common invertebrate and plant paleontological resources'' and ''negligible disturbance'' shall be determined by the Secretary.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term ''Federal lands'' means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term ''Indian Land'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under [section 9] *section 7* or is assessed a civil penalty under [section 10] *section 8*.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in [section 11] *section 9*.

SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under [section 9 or 10] *section 7 or 8*—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under [section 9 or 10] *section 7 or 8* occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), [the Mining in the Parks Act] *Public Law 94–429 (commonly known as the ''Mining in the Parks Act'') (16 U.S.C. 1901 et seq.)*, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 263), as amended, was read the third time and passed, as follows:

S. 263

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 ''Paleontological Resources Preservation Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms ''reasonable amount'', ''common invertebrate and plant paleontological resources'' and ''negligible disturbance'' shall be determined by the Secretary.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term ''Federal lands'' means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term ''Indian Land'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be

collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 7 or is assessed a civil penalty under section 8.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 9.

SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 7 or 8—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 7 or 8 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as

well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), Public Law 94–429 (commonly known as the ''Mining in the Parks Act'') (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

BIG HORN BENTONITE ACT

The bill (S. 97) to provide for the sale of bentonite in Big Horn County, Wyoming, was read the third time and passed; as follows:

S. 97

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 ''Big Horn Bentonite Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COVERED LAND.—The term ''covered land'' means the approximately 20 acres of previously withdrawn land located in the E½ NE¼ SE¼ of sec. 32, T. 56N., R. 95W., sixth principal meridian, Big Horn County, Wyoming.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. AUTHORIZATION OF MINING AND REMOVAL OF BENTONITE.

(a) IN GENERAL.—Notwithstanding the withdrawal of the covered land for military purposes, the Secretary may, with the consent of the Secretary of the Army, permit the mining and removal of bentonite on the covered land.

(b) SOLE-SOURCE CONTRACT.—The Secretary shall enter into a sole-source contract for the mining and removal of the bentonite from the covered land that provides for the payment to the Secretary of $1.00 per ton of bentonite removed from the covered land.

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Mining and removal of bentonite under this Act shall be subject to such terms and conditions as the Secretary may prescribe for—

(A) the prevention of unnecessary or undue degradation of the covered land; and

(B) the reclamation of the covered land after the bentonite is removed.

(2) REQUIREMENTS.—The terms and conditions prescribed under paragraph (1) shall be at least as protective of the covered land as the terms and conditions established for Pit No. 144L (BLM Case File WYW136110).

(3) LAND USE PLAN.—In carrying out the provisions of this Act, the Secretary is not required to amend any land use plan under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(4) TERMINATION OF INTEREST.—On completion of the mining and reclamation authorized under this Act, any party that has entered into the sole-source contract with the Secretary under subsection (b) shall have no remaining interest in the covered land.

SEC. 4. CLOSURE.

(a) IN GENERAL.—If the Secretary of the Army notifies the Secretary that closure of the covered land is required because of a national emergency or for the purpose of national defense or national security, the Secretary shall—

(1) order the suspension of any activity authorized by this Act on the covered land; and

(2) close the covered land until the Secretary of the Army notifies the Secretary that the closure is no longer necessary.

(b) LIABILITY.—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

DANDINI RESEARCH PARK CONVEYANCE ACT

The bill (S. 252) to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College system of Nevada, was read the third time and passed, as follows:

S. 252

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 ''Dandini Research Park Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the University and Community College System of Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall convey to the Board of Regents, without consideration, all right, title, and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, patented to the University of Nevada under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.), and described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is—

(A) the parcel of land consisting of approximately 309.11 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 1, 2, 3, 4, 5, and 11, SE¼NW¼, NE¼SW¼, Mount Diablo Meridian, Nevada; and

(B) the parcel of land consisting of approximately 158.22 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 6 and 7, SW¼NE¼, NW¼SE¼, Mount Diablo Meridian, Nevada.

(b) COSTS.—The Board of Regents shall pay to the United States an amount equal to the costs of the Secretary associated with the conveyance under subsection (a)(1).

(c) CONDITIONS.—If the Board of Regents sells any portion of the land conveyed to the Board of Regents under subsection (a)(1)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the Board of Regents shall pay to the Secretary an amount equal to the net proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation.

EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22 LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 253) to direct the Secretary of the Interior to convey certain land to the land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 253

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 ''Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term ''Post No. 22'' means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in [subsection (b)] *subsection (a)* is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in [section (b)] *subsection (b)* for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

The committee amendments were agreed to.

The bill (S. 253), as amended, was read the third time and passed, as follows:

S. 253

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 ''Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term ''Post No. 22'' means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in subsection (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARNERSHIP ACT OF 2005

The bill (S. 161) to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, was read the third time and passed, as follows:

S. 161

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005''.

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

TITLE I—NORTHERN ARIZONA LAND EXCHANGE

SEC. 101. DEFINITIONS.

In this title:

(1) CAMP.—The term ''camp'' means Camp Pearlstein, Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and Young Life Lost Canyon camps in the State of Arizona.

(2) CITIES.—The term ''cities'' means the cities of Flagstaff, Williams, and Camp Verde, Arizona.

(3) FEDERAL LAND.—The term ''Federal land'' means the land described in section 104.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the land described in section 103.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(6) YAVAPAI RANCH.—The term ''Yavapai Ranch'' means the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership, and the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

SEC. 102. LAND EXCHANGE.

(a) IN GENERAL.—(1) Upon the conveyance by Yavapai Ranch of title to the non-Federal land identified in section 103, the Secretary shall simultaneously convey to Yavapai Ranch title to the Federal land identified in section 104.

(2) Title to the lands to be exchanged shall be in a form acceptable to the Secretary and Yavapai Ranch.

(3) The Federal and non-Federal lands to be exchanged under this title may be modified prior to the exchange as provided in this title.

(4)(A) By mutual agreement, the Secretary and Yavapai Ranch may make minor and technical corrections to the maps and legal descriptions of the lands and interests therein exchanged or retained under this title, including changes, if necessary to conform to surveys approved by the Bureau of Land Management.

(B) In the case of any discrepancy between a map and legal description, the map shall prevail unless the Secretary and Yavapai Ranch agree otherwise.

(b) EXCHANGE PROCESS.—(1) Except as otherwise provided in this title, the land exchange under subsection (a) shall be undertaken in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716).

(2) Before completing the land exchange under this title, the Secretary shall perform any necessary land surveys and pre-exchange inventories, clearances, reviews, and approvals, including those relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and flood plains.

(c) EQUAL VALUE EXCHANGE.—(1) The value of the Federal land and the non-Federal land shall be equal, or equalized by the Secretary by adjusting the acreage of the Federal land in accordance with paragraph (2).

(2) If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, prior to making other adjustments, the Federal lands shall be adjusted by deleting all or part of the parcels or portions of the parcels in the following order:

(A) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 316 acres, located in the Prescott National Forest, and more particularly described as lots 1, 5, and 6 of section 26, the NE¼NE¼ portion of section 26 and the N½N½ portion of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(B) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 314 acres, located in the Prescott National Forest, and more particularly described as lots 2, 7, 8, and 9 of section 26,

the SE¼NE¼ portion of section 26, and the S½N½ of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) Beginning at the south boundary of section 31, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, by adding to the non-Federal land to be conveyed to the United States in ⅛-section increments (E–W 64th line) while deleting from the conveyance to Yavapai Ranch Federal land in the same incremental portions of section 32, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36 in Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east-to-west across the sections.

(D) Any other parcels, or portions thereof, agreed to by the Secretary and Yavapai Ranch.

(3) If any parcel of Federal land or non-Federal land is not conveyed because of any reason, that parcel of land, or portion thereof, shall be excluded from the exchange and the remaining lands shall be adjusted as provided in this subsection.

(4) If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and Yavapai Ranch shall, by mutual agreement, delete additional Federal land from the exchange until the value of the Federal land and non-Federal land is, to the maximum extent practicable, equal.

(d) APPRAISALS.—(1) The value of the Federal land and non-Federal land shall be determined by appraisals prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(2)(A) After the Secretary has reviewed and approved the final appraised values of the Federal land and non-Federal land to be exchanged, the Secretary shall not be required to reappraise or update the final appraised values before the completion of the land exchange.

(B) This paragraph shall apply during the three-year period following the approval by the Secretary of the final appraised values of the Federal land and non-Federal land unless the Secretary and Yavapai Ranch have entered into an agreement to implement the exchange.

(3) During the appraisal process, the appraiser shall determine the value of each parcel of Federal land and non-Federal land (including the contributory value of each individual section of the intermingled Federal and non-Federal land of the property described in sections 103(a) and 104(a)(1)) as an assembled transaction.

(4)(A) To ensure the timely and full disclosure to the public of the final appraised values of the Federal land and non-Federal land, the Secretary shall provide public notice of any appraisals approved by the Secretary and copies of such appraisals shall be available for public inspection in appropriate offices of the Prescott, Coconino, and Kaibab National Forests.

(B) The Secretary shall also provide copies of any approved appraisals to the cities and the owners of the camps described in section 101(1).

(e) CONTRACTING.—(1) If the Secretary lacks adequate staff or resources to complete the exchange by the date specified in section 106(c), Yavapai Ranch, subject to the agreement of the Secretary, may contract with independent third-party contractors to carry out any work necessary to complete the exchange by that date.

(2) If, in accordance with this subsection, Yavapai Ranch contracts with an independent third-party contractor to carry out any work that would otherwise be performed by the Secretary, the Secretary shall reimburse Yavapai Ranch for the costs for the third-party contractors.

(f) EASEMENTS.—(1) The exchange of non-Federal and Federal land under this title shall be subject to any easements, rights-of-way, utility lines, and any other valid encumbrances in existence on the date of enactment of this Act, including acquired easements for water pipelines as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, YRLP Acquired Easements for Water Lines'' dated August 2004, and any other reservations that may be agreed to by the Secretary and Yavapai Ranch.

(2) Upon completion of the land exchange under this title, the Secretary and Yavapai Ranch shall grant each other at no charge reciprocal easements for access and utilities across, over, and through—

(A) the routes depicted on the map entitled ''Yavapai Ranch Land Exchange, Road and Trail Easements, Yavapai Ranch Area'' dated August 2004; and

(B) any relocated routes that are agreed to by the Secretary and Yavapai Ranch.

(3) An easement described in paragraph (2) shall be unrestricted and non-exclusive in nature and shall run with and benefit the land.

(g) CONVEYANCE OF FEDERAL LAND TO CITIES AND CAMPS.—(1) Prior to the completion of the land exchange between Yavapai Ranch and the Secretary, the cities and the owners of the camps may enter into agreements with Yavapai Ranch whereby Yavapai Ranch, upon completion of the land exchange, will convey to the cities or the owners of the camps the applicable parcel of Federal land or portion thereof.

(2) If Yavapai Ranch and the cities or camp owners have not entered into agreements in accordance with paragraph (1), the Secretary shall, on notification by the cities or owners of the camps no later than 30 days after the date the relevant approved appraisal is made publicly available, delete the applicable parcel or portion thereof from the land exchange between Yavapai Ranch and the United States as follows:

(A) Upon request of the City of Flagstaff, Arizona, the parcels, or portion thereof, described in section 104(a)(2).

(B) Upon request of the City of Williams, Arizona, the parcels, or portion thereof, described in section 104(a)(3).

(C) Upon request of the City of Camp Verde, Arizona, a portion of the parcel described in section 104(a)(4), comprising approximately 514 acres located southeast of the southeastern boundary of the I–17 right-of-way, and more particularly described as the SE¼ portion of the southeast quarter of section 26, the E½ and the E½W½ portions of section 35, and lots 5 through 7 of section 36, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(D) Upon request of the owners of the Younglife Lost Canyon camp, the parcel described in section 104(a)(5).

(E) Upon request of the owner of Friendly Pines Camp, Patterdale Pines Camp, Camp Pearlstein, Pine Summit, or Sky Y Camp, as applicable, the corresponding parcel described in section 104(a)(6).

(3)(A) Upon request of the specific city or camp referenced in paragraph (2), the Secretary shall convey to such city or camp all right, title, and interest of the United States in and to the applicable parcel of Federal land or portion thereof, upon payment of the fair market value of the parcel and subject to any terms and conditions the Secretary may require.

(B) A conveyance under this paragraph shall not require new administrative or environmental analyses or appraisals beyond those prepared for the land exchange.

(4) A city or owner of a camp purchasing land under this subsection shall reimburse Yavapai Ranch for any costs incurred which are directly associated with surveys and appraisals of the specific property conveyed.

(5) A conveyance of land under this subsection shall not affect the timing of the land exchange.

(6) Nothing in this subsection limits the authority of the Secretary or Yavapai Ranch to delete any of the parcels referenced in this subsection from the land exchange.

(7)(A) The Secretary shall deposit the proceeds of any sale under paragraph (2) in a special account in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a).

(B) Amounts deposited under subparagraph (A) shall be available to the Secretary, without further appropriation, to be used for the acquisition of land in the State of Arizona for addition to the National Forest System, including the land to be exchanged under this title.

SEC. 103. DESCRIPTION OF NON-FEDERAL LAND.

(a) IN GENERAL.—The non-Federal land referred to in this title consists of approximately 35,000 acres of privately-owned land within the boundaries of the Prescott National Forest, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Non-Federal Lands'', dated August 2004.

(b) EASEMENTS.—(1) The conveyance of non-Federal land to the United States under section 102 shall be subject to the reservation of—

(A) water rights and perpetual easements that run with and benefit the land retained by Yavapai Ranch for—

(i) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 wells in existence on the date of enactment of this Act;

(ii) related storage tanks, valves, pumps, and hardware; and

(iii) pipelines to point of use; and

(B) easements for reasonable access to accomplish the purposes of the easements described in subparagraph (A).

(2) Each easement for an existing well referred to in paragraph (1) shall be 40 acres in area, and to the maximum extent practicable, centered on the existing well.

(3) The United States shall be entitled to one-half the production of each existing or replacement well, not to exceed a total of 3,100,000 gallons of water annually for National Forest System purposes.

(4) The locations of the easements and wells shall be as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Reserved Easements for Water Lines and Wells'', dated August 2004.

SEC. 104. DESCRIPTION OF FEDERAL LAND.

(a) IN GENERAL.—The Federal land referred to in this title consists of the following:

(1) Certain land comprising approximately 15,300 acres located in the Prescott National Forest, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Yavapai Ranch Area Federal Lands'', dated August 2004.

(2) Certain land located in the Coconino National Forest—

(A) comprising approximately 1,500 acres as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Flagstaff Federal Lands Airport Parcel'', dated August 2004; and

(B) comprising approximately 28.26 acres in two separate parcels, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Flagstaff Federal Lands Wetzel School and Mt. Elden Parcels'', dated August 2004.

(3) Certain land located in the Kaibab National Forest, and referred to as the Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels number 2, 3, and 4, cumulatively comprising approximately 950 acres, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Williams Federal Lands'', dated August 2004.

(4) Certain land located in the Prescott National Forest, comprising approximately 2,200 acres, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Camp Verde Federal Land General Crook Parcel'', dated August 2004.

(5) Certain land located in the Kaibab National Forest, comprising approximately 237.5 acres, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Younglife Lost Canyon'', dated August 2004.

(6) Certain land located in the Prescott National Forest, including the ''Friendly Pines'', ''Patterdale Pines'', ''Camp Pearlstein'', ''Pine Summit'', and ''Sky Y'' camps, cumulatively comprising approximately 200 acres, as generally depicted on the map entitled ''Yavapai Ranch Land Exchange, Prescott Federal Lands, Summer Youth Camp Parcels'', dated August 2004.

(b) CONDITION OF CONVEYANCE OF CAMP VERDE PARCEL.—(1) To conserve water in the Verde Valley, Arizona, and to minimize the adverse impacts from future development of the Camp Verde General Crook parcel described in subsection (a)(4) on current and future holders of water rights in existence of the date of enactment of this Act and the Verde River and National Forest System lands retained by the United States, the United States shall limit in perpetuity the use of water on the parcel by reserving conservation easements that—

(A) run with the land;

(B) prohibit golf course development on the parcel;

(C) require that any public park or greenbelt on the parcel be watered with treated wastewater;

(D) limit total post-exchange water use on the parcel to not more than 300 acre-feet of water per year;

(E) provide that any water supplied by municipalities or private water companies shall count towards the post-exchange water use limitation described in subparagraph (D); and

(F) except for water supplied to the parcel by municipal water service providers or private water companies, require that any water used for the parcel not be withdrawn from wells perforated in the saturated Holocene alluvium of the Verde River.

(2) If Yavapai Ranch conveys the Camp Verde parcel described in subsection (a)(4), or any portion thereof, the terms of conveyance shall include a recorded and binding agreement of the quantity of water available for use on the land conveyed, as determined by Yavapai Ranch, except that total water use on the Camp Verde parcel may not exceed the amount specified in paragraph (1)(D).

(3) The Secretary may enter into a memorandum of understanding with the State or political subdivision of the State to enforce the terms of the conservation easement.

SEC. 105. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) IN GENERAL.—Land acquired by the United States under this title shall become part of the Prescott National Forest and shall be administered by the Secretary in accordance with this title and the laws applicable to the National Forest System.

(b) GRAZING.—Where grazing on non-Federal land acquired by the Secretary under this title occurs prior to the date of enactment of this Act, the Secretary may manage the land to allow for continued grazing use, in accordance with the laws generally applicable to domestic livestock grazing on National Forest System land.

(c) TIMBER HARVESTING.—(1) After completion of the land exchange under this title, except as provided in paragraph (2), commercial timber harvesting shall be prohibited on the non-Federal land acquired by the United States.

(2) Timber harvesting may be conducted on the non-Federal land acquired under this title if the Secretary determines that such harvesting is necessary—

(A) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques;

(B) to protect or enhance grassland habitat, watershed values, native plants and wildlife species; or

(C) to improve forest health.

SEC. 106. MISCELLANEOUS PROVISIONS.

(a) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) WITHDRAWAL OF FEDERAL LAND.—Subject to valid existing rights, the Federal land is withdrawn from all forms of entry and appropriation under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing and geothermal leasing laws, until the date on which the land exchange is completed.

(c) COMPLETION OF EXCHANGE.—It is the intent of Congress that the land exchange authorized and directed under this title be completed not later than 18 months after the date of enactment of this Act.

SEC. 107. CONVEYANCE OF ADDITIONAL LAND.

(a) IN GENERAL.—The Secretary shall convey to a person that represents the majority of landowners with encroachments on the lot by quitclaim deed the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(c) AMOUNT OF CONSIDERATION.—In exchange for the land described in subsection (b), the person acquiring the land shall pay to the Secretary consideration in the amount of—

(1) $2500; plus

(2) any costs of re-monumenting the boundary of land.

(d) TIMING.—(1) Not later than 90 days after the date on which the Secretary receives a power of attorney executed by the person acquiring the land, the Secretary shall convey to the person the land described in subsection (b).

(2) If, by the date that is 270 days after the date of enactment of this Act, the Secretary does not receive the power of attorney described in paragraph (1)—

(A) the authority provided under this section shall terminate; and

(B) any conveyance of the land shall be made under Public Law 97–465 (16 U.S.C. 521c et seq.).

TITLE II—VERDE RIVER BASIN PARTNERSHIP

SEC. 201. PURPOSE.

The purpose of this title is to authorize assistance for a collaborative and science-based water resource planning and management partnership for the Verde River Basin in the State of Arizona, consisting of members that represent—

(1) Federal, State, and local agencies; and

(2) economic, environmental, and community water interests in the Verde River Basin.

SEC. 202. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Arizona Department of Water Resources.

(2) PARTNERSHIP.—The term ''Partnership'' means the Verde River Basin Partnership.

(3) PLAN.—The term ''plan'' means the plan for the Verde River Basin required by section 204(a)(1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(5) STATE.—The term ''State'' means the State of Arizona.

(6) VERDE RIVER BASIN.—The term ''Verde River Basin'' means the land area designated by the Arizona Department of Water Resources as encompassing surface water and groundwater resources, including drainage and recharge areas with a hydrologic connection to the Verde River.

(7) WATER BUDGET.—The term ''water budget'' means the accounting of—

(A) the quantities of water leaving the Verde River Basin—

(i) as discharge to the Verde River and tributaries;

(ii) as subsurface outflow;

(iii) as evapotranspiration by riparian vegetation;

(iv) as surface evaporation;

(v) for agricultural use; and

(vi) for human consumption; and

(B) the quantities of water replenishing the Verde River Basin by precipitation, infiltration, and subsurface inflows.

SEC. 203. VERDE RIVER BASIN PARTNERSHIP.

(a) IN GENERAL.—The Secretary may participate in the establishment of a partnership, to be known as the ''Verde River Basin Partnership'', made up of Federal, State, local governments, and other entities with responsibilities and expertise in water to coordinate and cooperate in the identification and implementation of comprehensive science-based policies, projects, and management activities relating to the Verde River Basin.

(b) AUTHORIZATION OF APPROPRIATIONS.—On establishment of the Partnership, there are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out the activities of the Partnership for each of fiscal years 2006 through 2010.

SEC. 204. VERDE RIVER BASIN STUDIES.

(a) STUDIES.—

(1) IN GENERAL.—The Partnership shall prepare a plan for conducting water resource studies in the Verde River Basin that identifies—

(A) the primary study objectives to fulfill water resource planning and management needs for the Verde River Basin; and

(B) the water resource studies, hydrologic models, surface and groundwater monitoring networks, and other analytical tools helpful in the identification of long-term water supply management options within the Verde River Basin.

(2) REQUIREMENTS.—At a minimum, the plan shall—

(A) include a list of specific studies and analyses that are needed to support Partnership planning and management decisions;

(B) identify any ongoing or completed water resource or riparian studies that are relevant to water resource planning and management for the Verde River Basin;

(C) describe the estimated cost and duration of the proposed studies and analyses; and

(D) designate as a study priority the compilation of a water budget analysis for the Verde Valley.

(b) VERDE VALLEY WATER BUDGET ANALYSIS.—

(1) IN GENERAL.—Subject to the availability of appropriations, not later than 14 months after the date of enactment of this Act, the Director of the U.S. Geological Survey, in cooperation with the Director, shall prepare and submit to the Partnership a report that provides a water budget analysis of the portion of the Verde River Basin within the Verde Valley.

(2) COMPONENTS.—The report submitted under paragraph (1) shall include—

(A) a summary of the information available on the hydrologic flow regime for the portion of the Middle Verde River from the Clarkdale streamgauging station to the city of Camp Verde at United States Geological Survey Stream Gauge 09506000;

(B) with respect to the portion of the Middle Verde River described in subparagraph (A), estimates of—

(i) the inflow and outflow of surface water and groundwater;

(ii) annual consumptive water use; and

(iii) changes in groundwater storage; and

(C) an analysis of the potential long-term consequences of various water use scenarios on groundwater levels and Verde River flows.

(c) PRELIMINARY REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 16 months after the date of enactment of this Act, using the information provided in the report submitted under subsection (b) and any other relevant information, the Partnership shall submit to the Secretary, the Governor of Arizona, and representatives of the Verde Valley communities, a preliminary report that sets forth the findings and recommendations of the Partnership regarding the long-term available water supply within the Verde Valley.

(2) CONSIDERATION OF RECOMMENDATIONS.—The Secretary may take into account the recommendations included in the report submitted under paragraph (1) with respect to decisions affecting land under the jurisdiction of the Secretary, including any future sales or exchanges of Federal land in the Verde River Basin after the date of enactment of this Act.

(3) EFFECT.—Any recommendations included in the report submitted under paragraph (1) shall not affect the land exchange process or the appraisals of the Federal land and non-Federal land conducted under sections 103 and 104.

SEC. 205. VERDE RIVER BASIN PARTNERSHIP FINAL REPORT.

Not later than 4 years after the date of enactment of this Act, the Partnership shall submit to the Secretary and the Governor of Arizona a final report that—

(1) includes a summary of the results of any water resource assessments conducted under this title in the Verde River Basin;

(2) identifies any areas in the Verde River Basin that are determined to have groundwater deficits or other current or potential water supply problems;

(3) identifies long-term water supply management options for communities and water resources within the Verde River Basin; and

(4) identifies water resource analyses and monitoring needed to support the implementation of management options.

SEC. 206. MEMORANDUM OF UNDERSTANDING.

The Secretary (acting through the Chief of the Forest Service) and the Secretary of the Interior, shall enter into a memorandum of understanding authorizing the United States Geological Survey to access Forest Service land (including stream gauges, weather stations, wells, or other points of data collection on the Forest Service land) to carry out this title.

SEC. 207. EFFECT.

Nothing in this title diminishes or expands State or local jurisdiction, responsibilities, or rights with respect to water resource management or control.

UINTAH RESEARCH AND CURATORIAL CENTER ACT

The Senate proceeded to consider the bill (S. 182) to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 182

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 ''Uintah Research and Curatorial Center Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term ''Center'' means the Uintah Research and Curatorial Center.

(2) MAP.—The term ''map'' means the map entitled ''Proposed Location of the [Uintah] *Uinta* Research and Curatorial Center'', numbered 122/80,080, and dated May 2004.

(3) MONUMENT.—The term ''Monument'' means the Dinosaur National Monument in the States of Colorado and Utah.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. UINTAH RESEARCH AND CURATORIAL CENTER.

(a) IN GENERAL.—To provide for the unified and cost-effective curation of the paleontological, natural, and cultural objects of the Monument and the surrounding area, the Secretary shall establish the Uintah Research and Curatorial Center on land located outside the boundary of the Monument acquired under subsection (b).

(b) ACQUISITION OF LAND.—The Secretary may acquire by donation land for the Center consisting of not more than 5 acres located in Uintah County, in the vicinity of Vernal, Utah, as generally depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) USE.—The Center shall be used for the curation of, storage of, and research on items in—

(1) the museum collection of the Monument; and

(2) any collection maintained by an entity described in subsection (e)(2) that enters into a cooperative agreement with the Secretary.

(e) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall—

(A) administer the land acquired under subsection (b); and

(B) promulgate any regulations that the Secretary determines to be appropriate for the use and management of the land.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with a Federal, State, and local agency, academic institution, Indian tribe, or nonprofit entity to provide for—

(A) the curation of and research on the museum collection at the Center; and

(B) the development, use, management, and operation of the Center.

(3) LIMITATION.—The land acquired by the Secretary under subsection (b) shall not—

(A) be a part of the Monument; or

(B) be subject to the laws (including regulations) applicable to the Monument.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $8,800,000.

The committee amendment was agreed to.

The bill (S. 182), as amended, was read the third time and passed.

LAND CONVEYANCE TO BEAVER COUNTY, UTAH

The bill (S. 52) to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah, was read the third time and passed, as follows:

S. 52

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

SECTION 1. CONVEYANCE TO BEAVER COUNTY, UTAH.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall, without consideration and subject to valid existing rights, convey to Beaver County, Utah (referred to in this Act as the ''County''), all right, title, and interest of the United States in and to the approximately 200 acres depicted as ''Minersville State Park'' on the map entitled ''S. 2285, Minersville State Park'' and dated April 30, 2004, for use for public recreation.

(b) RECONVEYANCE BY BEAVER COUNTY.—

(1) IN GENERAL.—Notwithstanding subsection (a), Beaver County may sell, for not less than fair market value, a portion of the property conveyed to the County under this section, if the proceeds of such sale are used by the County solely for maintenance of public recreation facilities located on the remainder of the property conveyed to the County under this section.

(2) LIMITATION.—If the County does not comply with the requirements of paragraph (1) in the conveyance of the property under that paragraph—

(A) the County shall pay to the United States the proceeds of the conveyance; and

(B) the Secretary of the Interior may require that all property conveyed under subsection (a) (other than the property sold by the County under paragraph (1)) revert to the United States.

NATIONAL TRAILS SYSTEM ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 54) to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 54

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

SECTION 1. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

Section 5 of the National Trails System Act (16 U.S.C. 1244) is amended by inserting the following new subsection:

[''(g) The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

[''(1) IN GENERAL.—

[''(A) DEFINITIONS.—In this subsection:

[''(i) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

[''(ii) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

[''(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

[''(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to the Congress not later than three complete fiscal years from the date funds are made available for the study.

[''(2) OREGON NATIONAL HISTORIC TRAIL.—]

''(g) REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.—

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

''(A) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

''(B) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

''(2) REQUIREMENTS FOR REVISION.—

''(A) IN GENERAL.—The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

''(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

''(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

''(3) OREGON NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) Whitman Mission route.

''(ii) Upper Columbia River.

''(iii) Cowlitz River route.

''(iv) Meek cutoff.

''(v) Free Emigrant Road.

''(vi) North Alternate Oregon Trail.

''(vii) Goodale's cutoff.

''(viii) North Side alternate route.

''(ix) Cutoff to Barlow road.

''(x) Naches Pass Trail.

''[(3)] (4) PONY EXPRESS NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.

''[(4)] (5) CALIFORNIA NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) MISSOURI VALLEY ROUTES.—

''(I) Blue Mills-Independence Road.

''(II) Westport Landing Road.

''(III) Westport-Lawrence Road.

''(IV) Fort Leavenworth-Blue River route.

''(V) Road to Amazonia.

''(VI) Union Ferry Route.

''(VII) Old Wyoming-Nebraska City cutoff.

''(VIII) Lower Plattsmouth Route.

''(IX) Lower Bellevue Route.

''(X) Woodbury cutoff.

''(XI) Blue Ridge cutoff.

''(XII) Westport Road.

''(XIII) Gum Springs-Fort Leavenworth route.

''(XIV) Atchison/Independence Creek routes.

''(XV) Fort Leavenworth-Kansas River route.

''(XVI) Nebraska City cutoff routes.

''(XVII) Minersville-Nebraska City Road.

''(XVIII) Upper Plattsmouth route.

''(XIX) Upper Bellevue route.

''(ii) CENTRAL ROUTES.—

''(I) Cherokee Trail, including splits.

''(II) Weber Canyon route of Hastings cutoff.

''(III) Bishop Creek cutoff.

''(IV) McAuley cutoff.

''(V) Diamond Springs cutoff.

''(VI) Secret Pass.

''(VII) Greenhorn cutoff.

''(VIII) Central Overland Trail.

''(iii) WESTERN ROUTES.—

''(I) Bidwell-Bartleson route.

''(II) Georgetown/Dagget Pass Trail.

''(III) Big Trees Road.

''(IV) Grizzly Flat cutoff.

''(V) Nevada City Road.

''(VI) Yreka Trail.

''(VII) Henness Pass route.

''(VIII) Johnson cutoff.

''(IX) Luther Pass Trail.

''(X) Volcano Road.

''(XI) Sacramento-Coloma Wagon Road.

''(XII) Burnett cutoff.

''(XIII) Placer County Road to Auburn.

''[(5)] (6) MORMON PIONEER NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

''(ii) 1856–57 Handcart route (Iowa City to Council Bluffs).

''(iii) Keokuk route (Iowa).

''(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

''(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

''(vi) 1850 Golden Pass Road in Utah.

''[(6)] (7) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) St. Joe Road.

''(ii) Council Bluffs Road.

''(iii) Sublette cutoff.

''(iv) Applegate route.

''(v) Old Fort Kearny Road (Oxbow Trail).

''(vi) Childs cutoff.

''(vii) Raft River to Applegate.''.

The committee amendments were agreed to.

The bill (S. 54), as amended, was read the third time and passed, as follows:

S. 54

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

SECTION 1. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

Section 5 of the National Trails System Act (16 U.S.C. 1244) is amended by inserting the following new subsection:

''(g) REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.—

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

''(A) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

''(B) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

''(2) REQUIREMENTS FOR REVISION.—

''(A) IN GENERAL.—The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

''(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

''(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

''(3) OREGON NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes

of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) Whitman Mission route.

''(ii) Upper Columbia River.

''(iii) Cowlitz River route.

''(iv) Meek cutoff.

''(v) Free Emigrant Road.

''(vi) North Alternate Oregon Trail.

''(vii) Goodale's cutoff.

''(viii) North Side alternate route.

''(ix) Cutoff to Barlow road.

''(x) Naches Pass Trail.

''(4) PONY EXPRESS NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.

''(5) CALIFORNIA NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) MISSOURI VALLEY ROUTES.—

''(I) Blue Mills-Independence Road.

''(II) Westport Landing Road.

''(III) Westport-Lawrence Road.

''(IV) Fort Leavenworth-Blue River route.

''(V) Road to Amazonia.

''(VI) Union Ferry Route.

''(VII) Old Wyoming-Nebraska City cutoff.

''(VIII) Lower Plattsmouth Route.

''(IX) Lower Bellevue Route.

''(X) Woodbury cutoff.

''(XI) Blue Ridge cutoff.

''(XII) Westport Road.

''(XIII) Gum Springs-Fort Leavenworth route.

''(XIV) Atchison/Independence Creek routes.

''(XV) Fort Leavenworth-Kansas River route.

''(XVI) Nebraska City cutoff routes.

''(XVII) Minersville-Nebraska City Road.

''(XVIII) Upper Plattsmouth route.

''(XIX) Upper Bellevue route.

''(ii) CENTRAL ROUTES.—

''(I) Cherokee Trail, including splits.

''(II) Weber Canyon route of Hastings cutoff.

''(III) Bishop Creek cutoff.

''(IV) McAuley cutoff.

''(V) Diamond Springs cutoff.

''(VI) Secret Pass.

''(VII) Greenhorn cutoff.

''(VIII) Central Overland Trail.

''(iii) WESTERN ROUTES.—

''(I) Bidwell-Bartleson route.

''(II) Georgetown/Dagget Pass Trail.

''(III) Big Trees Road.

''(IV) Grizzly Flat cutoff.

''(V) Nevada City Road.

''(VI) Yreka Trail.

''(VII) Henness Pass route.

''(VIII) Johnson cutoff.

''(IX) Luther Pass Trail.

''(X) Volcano Road.

''(XI) Sacramento-Coloma Wagon Road.

''(XII) Burnett cutoff.

''(XIII) Placer County Road to Auburn.

''(6) MORMON PIONEER NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

''(ii) 1856–57 Handcart route (Iowa City to Council Bluffs).

''(iii) Keokuk route (Iowa).

''(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

''(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

''(vi) 1850 Golden Pass Road in Utah.

''(7) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) St. Joe Road.

''(ii) Council Bluffs Road.

''(iii) Sublette cutoff.

''(iv) Applegate route.

''(v) Old Fort Kearny Road (Oxbow Trail).

''(vi) Childs cutoff.

''(vii) Raft River to Applegate.''.

RIO GRANDE NATURAL AREA ACT

The bill (S. 56) to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes, was read the third time and passed, as follows:

S. 56

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rio Grande Natural Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Rio Grande Natural Area Commission established by section 4(a).

(2) NATURAL AREA.—The term ''Natural Area'' means the Rio Grande Natural Area established by section 3(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT OF RIO GRANDE NATURAL AREA.

(a) IN GENERAL.—There is established the Rio Grande Natural Area in the State of Colorado to conserve, restore, and protect the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(b) BOUNDARIES.—The Natural Area shall include the Rio Grande River from the southern boundary of the Alamosa National Wildlife Refuge to the New Mexico State border, extending ¼ mile on either side of the bank of the River.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Natural Area.

(2) EFFECT.—The map and legal description of the Natural Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Natural Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. ESTABLISHMENT OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established the Rio Grande Natural Area Commission.

(b) PURPOSE.—The Commission shall—

(1) advise the Secretary with respect to the Natural Area; and

(2) prepare a management plan relating to non-Federal land in the Natural Area under section 6(b)(2)(A).

(c) MEMBERSHIP.—The Commission shall be composed of 9 members appointed by the Secretary, of whom—

(1) 1 member shall represent the Colorado State Director of the Bureau of Land Management;

(2) 1 member shall be the manager of the Alamosa National Wildlife Refuge, ex officio;

(3) 3 members shall be appointed based on the recommendation of the Governor of Colorado, of whom—

(A) 1 member shall represent the Colorado Division of Wildlife;

(B) 1 member shall represent the Colorado Division of Water Resources; and

(C) 1 member shall represent the Rio Grande Water Conservation District; and

(4) 4 members shall—

(A) represent the general public;

(B) be citizens of the local region in which the Natural Area is established; and

(C) have knowledge and experience in the fields of interest relating to the preservation, restoration, and use of the Natural Area.

(d) TERMS OF OFFICE.—

(1) IN GENERAL.—Except for the manager of the Alamosa National Wildlife Refuge, the term of office of a member of the Commission shall be 5 years.

(2) REAPPOINTMENT.—A member may be reappointed to the Commission on completion of the term of office of the member.

(e) COMPENSATION.—A member of the Commission shall serve without compensation for service on the Commission.

(f) CHAIRPERSON.—The Commission shall elect a chairperson of the Commission.

(g) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of the chairperson.

(2) PUBLIC MEETINGS.—A meeting of the Commission shall be open to the public.

(3) NOTICE.—Notice of any meeting of the Commission shall be published in advance of the meeting.

(h) TECHNICAL ASSISTANCE.—The Secretary and the heads of other Federal agencies

shall, to the maximum extent practicable, provide any information and technical services requested by the Commission to assist in carrying out the duties of the Commission.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—For purposes of carrying out the management plan on non-Federal land in the Natural Area, the Commission may enter into a cooperative agreement with the State of Colorado, a political subdivision of the State, or any person.

(2) REQUIREMENTS.—A cooperative agreement entered into under paragraph (1) shall establish procedures for providing notice to the Commission of any action proposed by the State of Colorado, a political subdivision of the State, or any person that may affect the implementation of the management plan on non-Federal land in the Natural Area.

(3) EFFECT.—A cooperative agreement entered into under paragraph (1) shall not enlarge or diminish any right or duty of a Federal agency under Federal law.

(c) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The Commission may not acquire any real property or interest in real property.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Commission shall assist the Secretary in implementing the management plan by carrying out the activities described in paragraph (2) to preserve and interpret the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(2) AUTHORIZED ACTIVITIES.—In assisting with the implementation of the management plan under paragraph (1), the Commission may—

(A) assist the State of Colorado in preserving State land and wildlife within the Natural Area;

(B) assist the State of Colorado and political subdivisions of the State in increasing public awareness of, and appreciation for, the natural, historic, scientific, scenic, wildlife, and recreational resources in the Natural Area;

(C) encourage political subdivisions of the State of Colorado to adopt and implement land use policies that are consistent with—

(i) the management of the Natural Area; and

(ii) the management plan; and

(D) encourage and assist private landowners in the Natural Area in the implementation of the management plan.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary and the Commission, in coordination with appropriate agencies in the State of Colorado, political subdivisions of the State, and private landowners in the Natural Area, shall prepare management plans for the Natural Area as provided in subsection (b).

(b) DUTIES OF SECRETARY AND COMMISSION.—

(1) SECRETARY.—The Secretary shall prepare a management plan relating to the management of Federal land in the Natural Area.

(2) COMMISSION.—

(A) IN GENERAL.—The Commission shall prepare a management plan relating to the management of the non-Federal land in the Natural Area.

(B) APPROVAL OR DISAPPROVAL.—

(i) IN GENERAL.—The Commission shall submit to the Secretary the management plan prepared under subparagraph (A) for approval or disapproval.

(ii) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan submitted under clause (i), the Secretary shall—

(I) notify the Commission of the reasons for the disapproval; and

(II) allow the Commission to submit to the Secretary revisions to the management plan submitted under clause (i).

(3) COOPERATION.—The Secretary and the Commission shall cooperate to ensure that the management plans relating to the management of Federal land and non-Federal land are consistent.

(c) REQUIREMENTS.—The management plans shall—

(1) take into consideration Federal, State, and local plans in existence on the date of enactment of this Act to present a unified preservation, restoration, and conservation plan for the Natural Area;

(2) with respect to Federal land in the Natural Area—

(A) be developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);

(B) be consistent, to the maximum extent practicable, with the management plans adopted by the Director of the Bureau of Land Management for land adjacent to the Natural Area; and

(C) be considered to be an amendment to the San Luis Resource Management Plan of the Bureau of Land Management; and

(3) include—

(A) an inventory of the resources contained in the Natural Area (including a list of property in the Natural Area that should be preserved, restored, managed, developed, maintained, or acquired to further the purposes of the Natural Area); and

(B) a recommendation of policies for resource management, including the use of intergovernmental cooperative agreements, that—

(i) protect the resources of the Natural Area; and

(ii) provide for solitude, quiet use, and pristine natural values of the Natural Area.

(d) PUBLICATION.—The Secretary shall publish notice of the management plans in the Federal Register.

SEC. 7. ADMINISTRATION OF NATURAL AREA.

(a) IN GENERAL.—The Secretary shall administer the Federal land in the Natural Area—

(1) in accordance with—

(A) the laws (including regulations) applicable to public land; and

(B) the management plan; and

(2) in a manner that provides for—

(A) the conservation, restoration, and protection of the natural, historic, scientific, scenic, wildlife, and recreational resources of the Natural Area;

(B) the continued use of the Natural Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Natural Area is established;

(C) the protection of the wildlife habitat of the Natural Area;

(D) a prohibition on the construction of water storage facilities in the Natural Area; and

(E) the reduction in the use of or removal of roads in the Natural Area and, to the maximum extent practicable, the reduction in or prohibition against the use of motorized vehicles in the Natural Area (including the removal of roads and a prohibition against motorized use on Federal land in the area on the western side of the Rio Grande River from Lobatos Bridge south to the New Mexico State line).

(b) CHANGES IN STREAMFLOW.—The Secretary is encouraged to negotiate with the State of Colorado, the Rio Grande Water Conservation District, and affected water users in the State to determine if changes in the streamflow that are beneficial to the Natural Area may be accommodated.

(c) PRIVATE LAND.—The management plan prepared under section 6(b)(2)(A) shall apply to private land in the Natural Area only to the extent that the private landowner agrees in writing to be bound by the management plan.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Natural Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

(e) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire from willing sellers by purchase, exchange, or donation land or an interest in land in the Natural Area.

(2) ADMINISTRATION.—Any land or interest in land acquired under paragraph (1) shall be administered in accordance with the management plan and this Act.

(f) APPLICABLE LAW.—Section 5(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(d)(1)) shall not apply to the Natural Area.

SEC. 8. EFFECT.

Nothing in this Act—

(1) amends, modifies, or is in conflict with the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, ch. 155);

(2) authorizes the regulation of private land in the Natural Area;

(3) authorizes the imposition of any mandatory streamflow requirements;

(4) creates an express or implied Federal reserved water right;

(5) imposes any Federal water quality standard within or upstream of the Natural Area that is more restrictive than would be applicable had the Natural Area not been established; or

(6) prevents the State of Colorado from acquiring an instream flow through the Natural Area under the terms, conditions, and limitations of State law to assist in protecting the natural environment to the extent and for the purposes authorized by State law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 10. TERMINATION OF COMMISSION.

The Commission shall terminate on the date that is 10 years after the date of enactment of this Act.

LAND CONVEYANCE TO FRANNIE, WYOMING

The bill (S. 101) to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation, was read the third time and passed, as follows:

S. 101

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

SECTION 1. CONVEYANCE OF LAND TO THE TOWN OF FRANNIE, WYOMING.

(a) CONVEYANCE.—Subject to valid existing rights, the Secretary of the Interior shall

convey by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the town of Frannie, Wyoming.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of land withdrawn by the Commissioner of Reclamation—

(1) consisting of approximately 37,500 square feet;

(2) located in the town of Frannie, Wyoming; and

(3) more particularly described in the approved Plat of Survey of Frannie Townsite, Wyoming, as the North ½ of Block 26, T. 58 N, R. 97 W.

(c) RESERVATION OF MINERAL RIGHTS.—The conveyance under subsection (a) shall be subject to the reservation by the United States of any oil and gas rights.

(d) REVOCATIONS.—

(1) SPECIAL USE PERMIT.—The special use permit issued by the Commissioner of Reclamation, numbered O–LM–60–L1413, and dated April 20, 1990, is revoked with respect to the land described in subsection (b).

(2) SECRETARIAL ORDERS.—The following Secretarial Orders issued by the Commissioner of Reclamation are revoked with respect to the land described in subsection (b):

(A) The Secretarial Order for the withdrawal of land for the Shoshone Reclamation Project dated October 21, 1913, as amended.

(B) The Secretarial Order for the withdrawal of land for the Frannie Townsite Reservation dated April 19, 1920.

NORTHERN CALIFORNIA COASTAL WILD HERITAGE WILDERNESS ACT

The Senate proceeded to consider the bill (S. 128) to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

S. 128

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 ''Northern California Coastal Wild Heritage Wilderness Act''.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means—

(1) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(2) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of California are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) SNOW MOUNTAIN WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Mendocino National Forest, comprising approximately 23,312 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall considered to be a part of the ''Snow Mountain Wilderness'', as designated by section 101(a)(31) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Skeleton Glade Unit, Snow Mountain Proposed Wilderness Addition, Mendocino National Forest'' and dated September 17, 2004; and

(ii) the map entitled ''Bear Creek/Deafy Glade Unit, Snow Mountain Wilderness Addition, Mendocino National Forest'' and dated September 17, 2004.

(2) SANHEDRIN WILDERNESS.—Certain land in the Mendocino National Forest, comprising approximately 10,571 acres, as generally depicted on the map entitled ''Sanhedrin Proposed Wilderness, Mendocino National Forest'' and dated September 17, 2004, which shall be known as the ''Sanhedrin Wilderness''.

(3) YUKI WILDERNESS.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Lake and Mendocino Counties, California, together comprising approximately 54,087 acres, as generally depicted on the map entitled ''Yuki Proposed Wilderness'' and dated October 28, 2004, which shall be known as the ''Yuki Wilderness''.

(4) YOLLA BOLLY-MIDDLE EEL WILDERNESS ADDITION.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Mendocino County, California, together comprising approximately 25,806 acres, as generally depicted on the map entitled ''Middle Fork Eel, Smokehouse and Big Butte Units, Yolla Bolly-Middle Eel Proposed Wilderness Addition'' and dated October 28, 2004, is incorporated in and shall considered to be a part of the Yolla Bolly-Middle Eel Wilderness, as designated by section 3 of the Wilderness Act (16 U.S.C. 1132).

(5) MAD RIVER BUTTES WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 6,494 acres, as generally depicted on the map entitled ''Mad River Buttes, Mad River Proposed Wilderness'' and dated September 17, 2004, which shall be known as the ''Mad River Buttes Wilderness''.

(6) SISKIYOU WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 48,754 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall be considered to be a part of the Siskiyou Wilderness, as designated by section 101(a)(30) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Bear Basin Butte Unit, Siskiyou Proposed Wilderness Additions, Six Rivers National Forest'' and dated October 28, 2004;

(ii) the map entitled ''Blue Creek Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated October 28, 2004;

(iii) the map entitled ''Blue Ridge Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004;

(iv) the map entitled ''Broken Rib Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004; and

(v) the map entitled ''Wooly Bear Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 27, 2004.

(7) MOUNT LASSIC WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 7,279 acres, as generally depicted on the map entitled ''Mt. Lassic Proposed Wilderness'' and dated September 17, 2004, which shall be known as the ''Mount Lassic Wilderness''.

(8) TRINITY ALPS WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 28,805 acres, as generally depicted on the maps described in subparagraph (B) and which is incorporated in and shall be considered to be a part of the Trinity Alps Wilderness as designated by section 101(a)(34) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Orleans Mountain Unit (Boise Creek), Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'', and dated October 28, 2004;

(ii) the map entitled ''East Fork Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004;

(iii) the map entitled ''Horse Linto Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004; and

(iv) the map entitled ''Red Cap Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest'' and dated September 17, 2004.

(9) UNDERWOOD WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 2,977 acres, as generally depicted on the map entitled ''Underwood Proposed Wilderness, Six Rivers National Forest'' and dated September 17, 2004, which shall be known as the ''Underwood Wilderness''.

(10) CACHE CREEK WILDERNESS.—Certain land administered by the Bureau of Land Management in Lake County, California, comprising approximately 30,870 acres, as generally depicted on the map entitled ''Cache Creek Wilderness Area'' and dated September 27, 2004, which shall be known as the ''Cache Creek Wilderness''.

(11) CEDAR ROUGHS WILDERNESS.—Certain land administered by the Bureau of Land Management in Napa County, California, comprising approximately 6,350 acres, as generally depicted on the map entitled ''Cedar Roughs Wilderness Area'' and dated September 27, 2004, which shall be known as the ''Cedar Roughs Wilderness''.

(12) SOUTH FORK EEL RIVER WILDERNESS.—Certain land administered by the Bureau of Land Management in Mendocino County, California, comprising approximately 12,915 acres, as generally depicted on the map entitled ''South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness'' and dated September 27, 2004, which shall be known as the ''South Fork Eel River Wilderness''.

(13) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Certain land administered by the Bureau of Land Management in Humboldt and Mendocino Counties, California, comprising approximately 42,585 acres, as generally depicted on the map entitled ''King Range Wilderness'', and dated November 12, 2004, which shall be known as the ''King Range Wilderness''.

(B) APPLICABLE LAW.—With respect to the wilderness designated by subparagraph (A), in the case of a conflict between this Act and Public Law 91–476 (16 U.S.C. 460y et seq.), the more restrictive provision shall control.

(14) ROCKS AND ISLANDS.—

(A) IN GENERAL.—All Federally-owned rocks, islets, and islands (whether named or unnamed and surveyed or unsurveyed) that are located—

(i) not more than 3 geographic miles off the coast of the King Range National Conservation Area; and

(ii) above mean high tide.

(B) APPLICABLE LAW.—In the case of a conflict between this Act and Proclamation No. 7264 (65 Fed. Reg. 2821), the more restrictive provision shall control.

SEC. 4. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the wilderness.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this Act is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(e) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—

(1) IN GENERAL.—The Secretary may take such measures in the wilderness areas designated by this Act as are necessary for the control and prevention of fire, insects, and diseases, in accordance with—

(A) section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(B) House Report No. 98–40 of the 98th Congress.

(2) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall review existing policies applicable to the wilderness areas designated by this Act to ensure that authorized approval procedures for any fire management measures allow a timely and efficient response to fire emergencies in the wilderness areas.

(f) ACCESS TO PRIVATE PROPERTY.—

(1) IN GENERAL.—The Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this Act adequate access to such property to ensure the reasonable use and enjoyment of the property by the owner.

(2) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Subject to subparagraph (B), within the wilderness designated by section 3(13), the access route depicted on the map for private landowners shall also be available for invitees of the private landowners.

(B) LIMITATION.—Nothing in subparagraph (A) requires the Secretary to provide any access to the landowners or invitees beyond the access that would be available if the wilderness had not been designated.

(g) SNOW SENSORS AND STREAM GAUGES.—If the Secretary determines that hydrologic, meteorologic, or climatological instrumentation is appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this Act, nothing in this Act prevents the installation and maintenance of the instrumentation within the wilderness areas.

(h) MILITARY ACTIVITIES.—Nothing in this Act precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(i) LIVESTOCK.—Grazing of livestock and the maintenance of existing facilities related to grazing in wilderness areas designated by this Act, where established before the date of enactment of this Act, shall be permitted to continue in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(j) FISH AND WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas designated by this Act if such activities are—

(A) consistent with applicable wilderness management plans; and

(B) carried out in accordance with applicable guidelines and policies.

(2) STATE JURISDICTION.—Nothing in this Act affects the jurisdiction of the State of California with respect to fish and wildlife on the public land located in the State.

(k) USE BY MEMBERS OF INDIAN TRIBES.—

(1) ACCESS.—In recognition of the past use of wilderness areas designated by this Act by members of Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure that Indian tribes have access to the wilderness areas for traditional cultural and religious purposes.

(2) TEMPORARY CLOSURES.—

(A) IN GENERAL.—In carrying out this section, the Secretary, on request of an Indian tribe, may temporarily close to the general public 1 or more specific portions of a wilderness area to protect the privacy of the members of the Indian tribe in the conduct of the traditional cultural and religious activities in the wilderness area.

(B) REQUIREMENT.—Any closure under subparagraph (A) shall be made in such a manner as to affect the smallest practicable area for the minimum period of time necessary for the activity to be carried out.

(3) APPLICABLE LAW.—Access to the wilderness areas under this subsection shall be in accordance with—

(A) Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996 et seq.); and

(B) the Wilderness Act (16 U.S.C. 1131 et seq.).

(l) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this Act creates protective perimeters or buffer zones around any wilderness area designated by this Act.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by this Act shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 5. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any previous Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS.—The study areas referred to in subsection (a) are—

(1) the King Range Wilderness Study Area;

(2) the Chemise Mountain Instant Study Area;

(3) the Red Mountain Wilderness Study Area;

(4) the Cedar Roughs Wilderness Study Area; and

(5) those portions of the Rocky Creek/Cache Creek Wilderness Study Area in Lake County, California which are not in R. 5 W., T. 12 N., sec. 22, Mount Diablo Meridian.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any other Act enacted before the date of enactment of this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

SEC. 6. ELKHORN RIDGE POTENTIAL WILDERNESS AREA.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public land in the State administered by the Bureau of Land Management, compromising approximately 9,655 acres, as generally depicted on the map entitled ''South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness'' and dated September 27, 2004, is designated as a potential wilderness area.

(b) MANAGEMENT.—Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area as wilderness until the potential wilderness area is designated as wilderness.

(c) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—For purposes of ecological restoration (including the elimination of non-native species, removal of illegal, unused, or decommissioned roads, repair of skid tracks, and any other activities necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may used motorized equipment and mechanized transport in the potential wilderness area until the potential wilderness area is designated as wilderness.

(2) LIMITATION.—To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.

(d) WILDERNESS DESIGNATION.—

(1) IN GENERAL.—The potential wilderness area shall be designated as wilderness and as a component of the National Wilderness Preservation System on the earlier of—

(A) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have been removed; or

(B) the date that is 5 years after the date of enactment of this Act.

(2) ADMINISTRATION.—On designation as wilderness under paragraph (1), the potential wilderness area shall be—

(A) known as the ''Elkhorn Ridge Wilderness''; and

(B) administered in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 7. WILD AND SCENIC RIVER DESIGNATION.

(a) DESIGNATION OF BLACK BUTTE RIVER, CALIFORNIA.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(167) BLACK BUTTE RIVER, CALIFORNIA.—The following segments of the Black Butte River in the State of California, to be administered by the Secretary of Agriculture:

''(A) The 16 miles of Black Butte River, from the Mendocino County Line to its confluence with Jumpoff Creek, as a wild river.

''(B) The 3.5 miles of Black Butte River from its confluence with Jumpoff Creek to its confluence with Middle Eel River, as a scenic river.

''(C) The 1.5 miles of Cold Creek from the Mendocino County Line to its confluence with Black Butte River, as a wild river.''.

(b) PLAN; REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress—

(A) a fire management plan for the Black Butte River segments designated by the amendment under subsection (a); and

(B) a report on the cultural and historic resources within those segments.

(2) TRANSMITTAL TO COUNTY.—The Secretary of Agriculture shall transmit to the Board of Supervisors of Mendocino County, California, a copy of the plan and report submitted under paragraph (1).

SEC. 8. KING RANGE NATIONAL CONSERVATION AREA BOUNDARY ADJUSTMENT.

Section 9 of Public Law 91–476 (16 U.S.C. 460y–8) is amended by adding at the end the following:

''(d) In addition to the land described in subsections (a) and (c), the land identified as the King Range National Conservation Area Additions on the map entitled 'King Range Wilderness' and dated November 12, 2004, is included in the Area.''.

The amendment (No. 1588) was agreed to.

(The amendment is printed in todays RECORD under ''Test of Amendments.'')

The bill (S. 128), as amended, was read the third time and passed.

YOSEMITE NATIONAL PARK AND GOLDEN GATE NATIONAL RECREATION AREA

The Senate proceeded to consider the bill (S. 136) to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, which had been reported from the Committee on Energy ND Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 136

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

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

[(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note); and the National Park Passport Program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

[(B) Emergency appropriations for flood recovery at Yosemite National Park.]

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting ''**AND YOSEMITE NATIONAL PARK**'' after ''**ZION NATIONAL PARK**'';

(2) in the first sentence—

(A) by inserting ''and Yosemite National Park'' after ''Zion National Park''; and

(B) by inserting ''for transportation systems or'' after ''appropriated funds''; and

(3) in the second sentence by striking ''facilities'' and inserting ''systems or facilities''.

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking ''service contract'' and inserting ''service contract, cooperative agreement, or other contractual arrangement''.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act''.

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

[(a)] Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking ''The recreation area shall comprise'' and inserting the following:

''(1) INITIAL LANDS.—The recreation area shall comprise''; and

(2) by striking ''The following additional lands are also'' and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

''(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

''(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–

240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

''(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

''(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

''(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

''(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

''(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.''.

The committee amendments were agreed to.

The amendment (No. 1589), in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting ''**AND YOSEMITE NATIONAL PARK**'' after ''**ZION NATIONAL PARK**'';

(2) in the first sentence—

(A) by inserting ''and Yosemite National Park'' after ''Zion National Park''; and

(B) by inserting ''for transportation systems or'' after ''appropriated funds''; and

(3) in the second sentence by striking ''facilities'' and inserting ''systems or facilities''.

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking ''service contract'' and inserting ''service contract, cooperative agreement, or other contractual arrangement''.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act''.

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking ''The recreation area shall comprise'' and inserting the following:

''(1) INITIAL LANDS.—The recreation area shall comprise''; and

(2) by striking ''The following additional lands are also'' and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

''(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

''(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

''(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

''(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

''(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

''(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

''(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.''.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Redwood National Park Boundary Adjustment Act of 2005''.

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking ''(a) The area'' and all that follows through the period at the end and inserting the following: ''(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.'';

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

''(2) The map referred to in paragraph (1) shall be—

''(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

''(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California.''; and

(3) in the second sentence—

(A) by striking ''The Secretary'' and inserting the following:

''(3) The Secretary;''and

(B) by striking ''one hundred and six thousand acres'' and inserting ''133,000 acres''.

The amendment (No. 1590) was agreed to, as follows:

Amend the title so as to read: ''To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of

the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.''.

The bill (S. 136), as amended, was read the third time and passed, as follows:

S. 136

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

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting ''**AND YOSEMITE NATIONAL PARK**'' after ''**ZION NATIONAL PARK**'';

(2) in the first sentence—

(A) by inserting ''and Yosemite National Park'' after ''Zion National Park''; and

(B) by inserting ''for transportation systems or'' after ''appropriated funds''; and

(3) in the second sentence by striking ''facilities'' and inserting ''systems or facilities''.

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking ''service contract'' and inserting ''service contract, cooperative agreement, or other contractual arrangement''.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act''.

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking ''The recreation area shall comprise'' and inserting the following:

''(1) INITIAL LANDS.—The recreation area shall comprise''; and

(2) by striking ''The following additional lands are also'' and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

''(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

''(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

''(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

''(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

''(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

''(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

''(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.''.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Redwood National Park Boundary Adjustment Act of 2005''.

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking ''(a) The area'' and all that follows through the period at the end and inserting the following: ''(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.'';

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

''(2) The map referred to in paragraph (1) shall be—

''(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

''(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California.''; and

(3) in the second sentence—

(A) by striking ''The Secretary'' and inserting the following:

''(3) The Secretary;''and

(B) by striking ''one hundred and six thousand acres'' and inserting ''133,000 acres''.

WATER STORAGE FOR CHEYENNE, WYOMING

The bill (H.R. 1046) to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming, was read the third time and passed.

H.R. 1046

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

SECTION 1. WATER STORAGE CONTRACTS.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term ''city'' means—

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) KENDRICK PROJECT.—The term ''Kendrick Project'' means the Bureau of Reclamation project on the North Platte

River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) STATE.—The term ''State'' means the State of Wyoming.

(b) CONTRACTS.—

(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) CONDITIONS.—

(A) TERM; RENEWAL.—A contract under paragraph (1) shall—

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) REVENUES.—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) EFFECT ON EXISTING CONTRACTORS.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Mr. MCCAIN. Mr. President, I am pleased that the Senate passed S. 161, the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005. It is my hope that this bill will be considered quickly by the House of Representatives and sent to the President for his signature in the near future.

I want to thank Senator KYL and his staff for their work in helping to develop this compromise legislation. I also want to thank Senators DOMENICI and BINGAMAN, and their staffs on the Senate Energy and Natural Resources Committee, for their efforts in reaching an agreement on this legislation during the last Congress and helping to move it through the legislative process. In addition, I want to recognize the work of Congressmen RENZI and HAYWORTH who have championed this legislation in the House of Representatives.

Late last year, after several years of negotiation and compromise, the Senate passed by unanimous consent a nearly identical measure. This bill provides a sound framework for a fair and equal value exchange of 50,000 acres of private and public land in Northern Arizona. It also addresses water issues associated with the exchange of lands located within the Verde River Basin watershed by limiting water usage on certain exchanged lands and by supporting the development of a collaborative science-based water resource planning and management entity for the Verde River Basin watershed.

The Arizona delegation and a broad array of local area officials are strongly supportive of the legislation because it will offer significant benefits for all parties. Benefits will accrue to the U.S. Forest Service and the public with the consolidation of checkerboard lands and the protection and enhanced management of extensive forest and grasslands. The communities of Flagstaff, Williams, and Camp Verde also will benefit in terms of economic development opportunities, water supply, and other important purposes.

While facilitating the exchange of public and private lands is a very important objective of this legislation, and indeed, was the original purpose when we began working on it several years ago, the provisions concerning water management are perhaps even more important. Since introducing the original legislation over 2 years ago, I have heard from hundreds of Arizonans and learned first-hand of the significant water issues raised by the transfer of Federal land into private ownership. We have modified the bill to take into account many of the concerns raised during meetings held throughout northern Arizona, including removing certain lands entirely from the exchange.

There is growing recognition of the need to develop and promote the wise management of Arizona's limited water supplies, particularly with the extended drought coupled with rapid population growth. As such, the bill passed by the Senate would not only limit water usage on the exchanged lands, but also provide an opportunity to encourage sound water management in northern Arizona through the creation of a collaborative, science-based decision-making body to advance essential planning and management at the State and local level in Northern Arizona.

To be successful, this effort will require the involvement of all the stakeholders with water supply responsibilities and interests. It will also require a solid foundation of knowledge about available resources and existing demands. We are fortunate to have an existing model of collaborative science-based water resource planning and management with the Upper San Pedro Partnership in the Sierra Vista subwatershed of Arizona. In my view, the establishment of a similar, cooperative body in the Verde Basin will be a vital step in assuring the wise use of our limited water resources.

Again, I want to thank all of the parties involved with this legislation.

DESIGNATING A PORTION OF THE WHITE SALMON RIVER AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

FURTHERING THE PURPOSES OF THE SAND CREEK MASSACRE NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 2000

DIRECTING THE SECRETARY OF AGRICULTURE TO CONVEY CERTAIN LAND TO LANDER COUNTY, NEVADA, AND THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND TO EUREKA COUNTY, NEVADA, FOR CONTINUED USE AS CEMETERIES

Ms. COLLINS. I ask consent that the committee be discharged from further consideration of H.R. 38, H.R. 481, and H.R. 541, and the Senate proceed to the measures en bloc, provided that the bills be read a third time and passed en bloc, and any statements related to the bills be printed in the RECORD.

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

The bills (H.R. 38), (H.R. 481) and (H.R. 541) were read the third time and passed en bloc.

MEASURES INDEFINITELY POSTPONED—CALENDAR NOS. 19, 23, 31, 40

Ms. COLLINS. Finally, I ask unanimous consent that calendar Nos. 19, 23, 31, and 40 be indefinitely postponed.

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

ESTABLISHING THE TREATMENT OF ACTUAL RENTAL PROCEEDS FROM LEASES OF LAND ACQUIRED UNDER AN ACT PROVIDING FOR LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

AMENDING THE INDIAN LAND CONSOLIDATION ACT TO PROVIDE FOR PROBATE REFORM

AMENDING THE ACT OF AUGUST 9, 1955, TO PROVIDE FOR BINDING ARBITRATION FOR GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS

AMENDING THE CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998 TO MODIFY THE DEFINITION OF ''INDIAN STUDENT COUNT''

AMENDING THE FALLON PAIUTE SHOSHONE INDIAN TRIBES WATER RIGHTS SETTLEMENT ACT OF 1990

AMENDING THE ACT OF AUGUST 9, 1955, TO EXTEND THE AUTHORIZATION OF CERTAIN LEASES

Ms. COLLINS. I ask unanimous consent the Senate proceed to en bloc consideration of the following bills introduced earlier today: S. 1480, S. 1481, S. 1482, S. 1483, S. 1484, and S. 1485.

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

Ms. COLLINS. I further ask unanimous consent the bills be read a third time and passed, the motions to reconsider be laid upon the table, all en bloc.

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

The bills considered and agreed to en bloc are as follows:

S. 1480

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

SECTION 1. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under the first section of the Act entitled ''An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes'' (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

S. 1481

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 ''Indian Land Probate Reform Technical Corrections Act of 2005''.

SEC. 2. PARTITION OF HIGHLY FRACTIONATED INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) PURCHASE OF LAND.—

''(1) IN GENERAL.—Subject to subsection (b), any Indian tribe may purchase, at not less than fair market value and with the consent of the owners of the interests, part or all of the interests in—

''(A) any tract of trust or restricted land within the boundaries of the reservation of the tribe; or

''(B) land that is otherwise subject to the jurisdiction of the tribe.

''(2) REQUIRED CONSENT.—

''(A) IN GENERAL.—The Indian tribe may purchase all interests in a tract described in paragraph (1) with the consent of the owners of undivided interests equal to at least 50 percent of the undivided interest in the tract.

''(B) INTEREST OWNED BY TRIBE.—Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under subparagraph (A) has been met.'';

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as redesignated by paragraph (2))—

(A) in paragraph (2)—

(i) in subparagraph (G)(ii)(I), by striking ''a higher valuation of the land'' and inserting ''a value of the land that is equal to or greater than that of the earlier appraisal''; and

(ii) in subparagraph (I)(iii)—

(I) in subclause (III), by inserting ''(if any)'' after ''this section''; and

(II) in subclause (IV)—

(aa) in item (aa), by striking ''less'' and inserting ''more''; and

(bb) in item (bb), by striking ''to implement this section'' and inserting ''under paragraph (5)''; and

(B) in paragraph (5), in the second sentence, by striking ''shall'' and inserting ''may''.

SEC. 3. TRIBAL PROBATE CODES.

Section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205) is amended—

(1) in subsection (b)(3), by striking subparagraph (A) and inserting the following:

''(A) the date that is 1 year after the date on which the Secretary makes the certification required under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374); or''; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking ''section'' and all that follows through ''the Indian tribe'' and inserting ''section 207(b)(2)(A)(ii), the Indian tribe''; and

(B) in paragraph (2)(A)(i)(II)(bb), by inserting ''in writing'' after ''agrees''.

SEC. 4. DESCENT AND DISTRIBUTION.

(a) IN GENERAL.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) by redesignating subsections (h) through (p) as subsections (g) through (o), respectively;

(2) in subsection (g) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) by inserting ''specifically'' after ''pertains''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) the allotted land (or any interest relating to such land) of 1 or more specific Indian tribes expressly identified in Federal law, including any of the Federal laws governing the probate or determination of heirs associated with, or otherwise relating to, the land, interest in land, or other interests or assets that are owned by individuals in—

''(i) Five Civilized Tribes restricted fee status; or

''(ii) Osage Tribe restricted fee status.''; and

(B) by adding at the end the following:

''(3) EFFECT OF SUBSECTION.—Except to the extent that this Act otherwise affects the application of a Federal law described in paragraph (2), nothing in this subsection limits the application of this Act to trust or restricted land, interests in such land, or any other trust or restricted interests or assets.'';

(3) in subsection (h) (as redesignated by paragraph (1))—

(A) in paragraph (6), by striking ''(25 U.S.C. 2205)''; and

(B) in paragraph (7), by inserting ''in trust or restricted status'' after ''testator'';

(4) in subsection (j) (as redesignated by paragraph (1))—

(A) in paragraph (2)(A)—

(i) in clause (ii)(I), by striking ''the date of enactment of this subparagraph'' and inserting ''the date that is 1 year after the date on which the Secretary publishes a notice of certification under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374)''; and

(ii) in clause (iii), by striking ''the provisions of section 207(a)(2)(A)'' and inserting ''subsection (a)(2)(A)'';

(B) in paragraph (8)(D), by striking ''the provisions of section 207(a)(2)(D) (25 U.S.C. 2206(a)(2)(D))'' and inserting ''subsection (a)(2)(D)''; and

(C) in paragraph (9)(C)—

(i) by striking ''section 207(e) (25 U.S.C. 2206(e))'' and inserting ''subsection (e)''; and

(ii) by striking ''section 207(p) (25 U.S.C. 2206(p))'' and inserting ''subsection (o)''; and

(5) in subsection (o) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''section 207(a)(2)(A) or (D)'' and inserting ''subparagraph (A) or (D) of subsection (a)(2)''; and

(ii) in subparagraph (A), by striking ''section 207(b)(1)(A)'' and inserting ''subsection (b)(1)(A)'';

(B) in paragraph (3)(B), by striking ''section 207(a)(2)(A) or (D)'' and inserting ''subparagraph (A) or (D) of subsection (a)(2)''; and

(C) in paragraph (6)—

(i) in the first sentence, by striking ''Proceeds'' and inserting the following:

''(A) IN GENERAL.—Proceeds''; and

(ii) by striking the second sentence and inserting the following:

''(B) HOLDING IN TRUST.—Proceeds described in subparagraph (A) shall be deposited and held in an account as trust personalty if the interest sold would otherwise pass to—

''(i) the heir, by intestate succession under subsection (a); or

''(ii) the devisee in trust or restricted status under subsection (b)(1).''.

(b) NONTESTAMENTARY DISPOSITION.—Section 207(a)(2)(D)(iv)(I)(aa) of the Indian Land Consolidation Act (25 U.S.C. 2206(a)(2)(D)(iv)(I)(aa)) is amended—

(1) by striking ''clause (iii)'' and inserting ''this subparagraph''; and

(2) in subitem (BB), by striking ''any coowner'' and inserting ''not more than 1 coowner''.

(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 the subsection heading and inserting the following:

''(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—''.

(d) ESTATE PLANNING ASSISTANCE.—Section 207(f)(3) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(3)) is amended in the matter preceding subparagraph (A) by inserting '', including noncompetitive grants,'' after ''grants''.

SEC. 5. FRACTIONAL INTEREST ACQUISITION PROGRAM.

Section 213 of the Indian Land Consolidation Act (25 U.S.C. 2212) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 213. FRACTIONAL INTEREST ACQUISITION PROGRAM.'';

and

(2) in subsection (a)(1), by striking ''(25 U.S.C. 2206(p))''.

SEC. 6. ESTABLISHING FAIR MARKET VALUE.

Section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) is amended by striking the last sentence and inserting the following: ''Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this Act.''.

SEC. 7. LAND OWNERSHIP INFORMATION.

Section 217(e) of the Indian Land Consolidation Act (25 U.S.C. 2216(e)) is amended by striking ''be made available to'' and inserting ''be made available to—''.

SEC. 8. CONFORMING AMENDMENTS.

(a) PROBATE REFORM.—The American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374) is amended—

(1) in section 4, by striking ''(as amended by section 6(a)(2))''; and

(2) in section 9, by striking ''section 205(d)(2)(I)(i)'' and inserting ''section 205(c)(2)(I)(i) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)(2)(I)(i))''.

(b) TRANSFER AND EXCHANGE OF LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended to read as follows:

''SEC. 4. TRANSFER AND EXCHANGE OF RESTRICTED INDIAN LAND AND SHARES OF INDIAN TRIBES AND CORPORATIONS.

''(a) APPROVAL.—Except as provided in this section, no sale, devise, gift, exchange, or other transfer of restricted Indian land or shares in the assets of an Indian tribe or corporation organized under this Act shall be made or approved.

''(b) TRANSFER TO INDIAN TRIBE.—

''(1) IN GENERAL.—Land or shares described in subsection (a) may be sold, devised, or otherwise transferred to the Indian tribe on the reservation of which the land is located, or in the corporation of which the shares are held or were derived (or a successor of such a corporation), with the approval of the Secretary of the Interior.

''(2) DESCENT AND DEVISE.—Land and shares transferred under paragraph (1) shall descend or be devised to any member of the Indian tribe or corporation (or an heir of such a member) in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved under that Act (including regulations).

''(c) VOLUNTARY EXCHANGES.—The Secretary of the Interior may authorize a voluntary exchange of land or shares described in subsection (a) that the Secretary determines to be of equal value if the Secretary determines that the exchange is—

''(1) expedient;

''(2) beneficial for, or compatible with, achieving proper consolidation of Indian land; and

''(3) for the benefit of cooperative organizations.''.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall be effective as if included in the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374).

S. 1482

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

SECTION 1. BINDING ARBITRATION FOR GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS.

(a) AMENDMENTS.—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence—

(A) by striking ''Any lease'' and all that follows through ''affecting land'' and inserting ''Any contract, including a lease, affecting land''; and

(B) by striking ''such lease or contract'' and inserting ''the contract''; and

(2) in the second sentence, by striking ''Such leases or contracts entered into pursuant to such Acts'' and inserting ''Such contracts''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective beginning on April 4, 2002.

S. 1483

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

SECTION 1. DEFINITION OF INDIAN STUDENT COUNT.

Section 117(h) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327(h)) is amended by striking paragraph (2) and inserting the following:

''(2) INDIAN STUDENT COUNT.—

''(A) IN GENERAL.—The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally-controlled postsecondary vocational and technical institution, as determined in accordance with subparagraph (B).

''(B) DETERMINATION.—

''(i) ENROLLMENT.—For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

''(I) in the case of the fall term, the third week of the fall term; and

''(II) in the case of the spring term, the third week of the spring term.

''(ii) CALCULATION.—For each academic year, the Indian student count for a tribally-controlled postsecondary vocational and technical institution shall be the quotient obtained by dividing—

''(I) the sum of the credit-hours of all Indian students enrolled in the tribally-controlled postsecondary vocational and technical institution (as determined under clause (i)); by

''(II) 12.

''(iii) SUMMER TERM.—Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.

''(iv) STUDENTS WITHOUT SECONDARY SCHOOL DEGREES.—

''(I) IN GENERAL.—A credit earned at a tribally-controlled postsecondary vocational and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

''(II) PRESUMPTION.—The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.

''(III) CREDITS TOWARD SECONDARY SCHOOL DEGREE.—No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.

''(v) CONTINUING EDUCATION PROGRAMS.—Any credit earned by an Indian student in a continuing education program of a tribally-controlled postsecondary vocational and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit-hour basis in accordance with the system of the institution for providing credit for participation in the program.''.

S. 1484

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

SECTION 1. FALLON PAIUTE SHOSHONE TRIBES SETTLEMENT.

(a) SETTLEMENT FUND.—Section 102 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101–618; 104 Stat. 3289) is amended—

(1) in subsection (C)—

(A) in paragraph (1)—

(i) by striking the matter preceding subparagraph (a) and inserting the following: ''Notwithstanding any conflicting provision in the original Fund plan during Fund fiscal year 2006 or any subsequent Fund fiscal year, 6 percent of the average quarterly market value of the Fund during the immediately preceding 3 Fund fiscal years (referred to in this title as the 'Annual 6 percent Amount'), plus any unexpended and unobligated portion of the Annual 6 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2005, less any negative income that may accrue on that portion, may be expended or obligated only for the following purposes:''; and

(ii) by adding at the end the following:

''(g) Fees and expenses incurred in connection with the investment of the Fund, for investment management, investment consulting, custodianship, and other transactional services or matters.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) No monies from the Fund other than the amounts authorized under paragraphs (1) and (3) may be expended or obligated for any purpose.

''(5) Notwithstanding any conflicting provision in the original Fund plan, during Fund fiscal year 2006 and during each subsequent Fund fiscal year, not more than 20 percent of the Annual 6 percent Amount for the Fund fiscal year (referred to in this title as the 'Annual 1.2 percent Amount') may be expended or obligated under paragraph (1)(c) for per capita distributions to tribal members, except that during each Fund fiscal year subsequent to Fund fiscal year 2006, any unexpended and unobligated portion of the Annual 1.2 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2005, less any negative income that may accrue on that portion, may also be expended or obligated for such per capita payments.''; and

(2) in subsection (D), by adding at the end the following: ''Notwithstanding any conflicting provision in the original Fund plan, the Fallon Business Council, in consultation with the Secretary, shall promptly amend the original Fund plan for purposes of conforming the Fund plan to this title and making nonsubstantive updates, improvements, or corrections to the original Fund plan.''.

(b) DEFINITIONS.—Section 107 of the Fallon Paiute Shoshone Indian Tribes Water Rights

Settlement Act of 1990 (Public Law 101–618; 104 Stat. 3293) is amended—

(1) by redesignating subsections (D), (E), (F), and (G) as subsections (F), (G), (H), and (I), respectively; and

(2) by striking subsections (B) and (C) and inserting the following:

''(B) the term 'Fund fiscal year' means a fiscal year of the Fund (as defined in the Fund plan);

''(C) the term 'Fund plan' means the plan established under section 102(F), including the original Fund plan (the 'Plan for Investment, Management, Administration and Expenditure dated December 20, 1991') and all amendments of the Fund plan under subsection (D) or (F)(1) of section 102;

''(D) the term 'income' means the total net return from the investment of the Fund, consisting of all interest, dividends, realized and unrealized gains and losses, and other earnings, less all related fees and expenses incurred for investment management, investment consulting, custodianship and transactional services or matters;

''(E) the term 'principal' means the total amount appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund under section 102(B);''.

S. 1485

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

SECTION 1. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by striking ''Moapa Indian reservation'' and inserting ''Moapa Indian Reservation'';

(2) by inserting ''the reservation of the Confederated Tribes of the Umatilla Indian Reservation,'' before ''the Burns Paiute Reservation'';

(3) by inserting ''the'' before ''Yavapai-Prescott'';

(4) by inserting ''the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian tribe,'' after ''the Cabazon Indian reservation,'';

(5) by striking ''Washington,,'' and inserting ''Washington,'';

(6) by inserting ''land held in trust for the Prairie Band Potawatomi Nation,'' before ''land held in trust for the Cherokee Nation of Oklahoma'';

(7) by inserting ''land held in trust for the Fallon Paiute Shoshone tribes,'' before ''land held in trust for the Pueblo of Santa Clara''; and

(8) by inserting ''land held in trust for the Yurok tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,'' after ''Pueblo of Santa Clara,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

S. 1480—CERTIFICATION OF INDIAN RENTAL PROCEEDS ACT OF 2005

Mr. MCCAIN. Mr. President, the Certification of Indian Rental Proceeds Act of 2005 was originally introduced as a component of the Native American Omnibus Act of 2005. I am pleased to be joined by the vice chairman of the Senate Committee on Indian Affairs, Senator BYRON DORGAN, and Senator TIM JOHNSON as original co-sponsors of this bill.

The Certification of Indian rental proceeds amends Title 25 USC Section 488 to permit actual rental proceeds from a lease to constitute the rental value of that land, and to satisfy the requirement for appraisal of that land.

S. 1481—INDIAN LAND PROBATE REFORM TECHNICAL CORRECTIONS ACT OF 2005

Mr. MCCAIN. Mr. President, the Indian Land Probate Reform Technical Corrections Act of 2005, was originally introduced as a component of the Native American Omnibus Act of 2005. I'm pleased to be joined by the vice chairman of the Senate Indian Affairs Committee, BYRON DORGAN, on this bill.

The Indian probate reform technical corrections amendments, amends the American Indian Probate Reform Act of 2004 by correcting provisions relating to non-testamentary disposition, partition of highly fractionated Indian land, and Tribal probate codes.

S. 1482—GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS ACT OF 2005

Mr. MCCAIN. Mr. President, the Gila River Indian Community Reservation Contracts Act of 2005 was originally introduced as a component of the Native American Omnibus Act of 2005. I'm pleased to be joined by the vice chairman of the Senate Indian Affairs Committee, BYRON DORGAN, on this bill.

The Gila River Indian Community reservation contracts, is a technical amendment to allow binding arbitration in all contracts and not just leases on the Gila River Indian Community reservation.

S. 1483—DEFINITION OF INDIAN STUDENT COUNT ACT OF 2005

Mr. MCCAIN. Mr. President, the Definition of Indian Student Count Act of 2005 was originally introduced as a component of the Native American Omnibus Act of 2005. I'm pleased to be joined by the vice chairman of the Senate Indian Affairs Committee, BYRON DORGAN, on this bill.

The definition of Indian student count, amends the Carl D. Perkins Vocational Act of 1998 to include the registration of Indian students in the Spring semester.

CONVEYING ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES IN AND TO THE LAND DESCRIBED IN THIS ACT TO THE SECRETARY OF THE INTERIOR FOR THE PRAIRIE ISLAND INDIAN COMMUNITY IN MINNESOTA

AMENDING THE ACT OF JUNE 7, 1924, TO PROVIDE FOR THE EXERCISE OF CRIMINAL JURISDICTION

CORRECTING THE SOUTH BOUNDARY OF THE COLORADO RIVER INDIAN RESERVATION IN ARIZONA

Ms. COLLINS. I now ask unanimous consent that the Indian Affairs Committee be discharged and the Senate proceed to the en bloc consideration of H.R. 794, S. 706, and S. 279.

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

Ms. COLLINS. I ask unanimous consent that the amendment to S. 279 be agreed to, the bills, as amended, if amended, be read a third time and passed, and the motions to reconsider be laid on the table en bloc.

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

The bill (H.R. 794) was read the third time and passed.

The bill (S. 706) was read the third time and passed, as follows:

S. 706

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 ''Prairie Island Land Conveyance Act of 2005''.

SEC. 2. PRAIRIE ISLAND LAND CONVEYANCE.

(a) IN GENERAL.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary of the Interior, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) LAND DESCRIPTION.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO–251, GO–252, GO–271, GO–277, GO–278, GO–284, GO–301 through GO–313, GO–314A, GO–314B, GO–329, GO–330A, GO–330B, GO–331A, GO–331B, GO–331C, GO–332, GO–333, GO–334, GO–335A, GO–335B, GO–336 through GO–338, GO–339A, GO–339B, GO–339C, GO–339D, GO–339E, GO–340A, GO–340B, GO–358, GO–359A, GO–359B, GO–359C, GO–359D, and GO–360, as depicted on the map entitled ''United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights'' and dated December 1936.

(c) BOUNDARY SURVEY.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176).

(d) EASEMENT.—

(1) IN GENERAL.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) INCLUSIONS.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) OWNERSHIP OF STURGEON LAKE BED UNAFFECTED.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) CONDITIONS.—The conveyance under subsection (a) is subject to the conditions

that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) NO EFFECT ON ELIGIBILITY FOR CERTAIN PROJECTS.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) EFFECT OF SECTION.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary of the Interior to the Secretary of War and the letters of the Secretary of War in response to the Secretary of the Interior dated August 18, 1937, and November 27, 1937, under which the Secretary of the Interior granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled ''United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights'' and dated December 1936.

The amendment (No. 1591) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

''SEC. 20. CRIMINAL JURISDICTION.

''(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

''(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos' inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), or by any other Indian-owned entity.

''(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in title 25, sections 1301(2) and 1301(4) or any Indian-owned entity, or that involves any Indian property or interest.

''(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), which offense is not subject to the jurisdiction of the United States.''.

The bill (S. 279), as amended, was read the third time and passed.

CHILDREN'S HOSPITALS EDUCATIONAL EQUITY AND RESEARCH ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 98, S. 285.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 285) to reauthorize the Children's Hospitals Graduate Medical Education Program.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 285

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 ''Children's Hospitals Educational Equity and Research Act'' or the ''CHEER Act''.

[SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.

[(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking ''2005'' and inserting ''2010''.

[(b) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 256e(c)) is amended—

[(1) in paragraph (1)(B), by inserting ''but without giving effect to section 1886(h)(7) of such Act)'' after ''section 1886(h)(4) of the Social Security Act''; and

[(2) in paragraph (2)(E)(ii), by striking ''described in subparagraph (C)(ii)'' and inserting ''applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year''.

[(c) NATURE OF PAYMENTS.—Section 340E(e)(3) of the Public Health Service Act (42 U.S.C. 256e(e)(3)) is amended by striking ''made to pay'' and inserting ''made and pay''.

[(d) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—

[(1) in paragraph (1)(A)—

[(A) in clause (ii), by striking ''and'';

[(B) in clause (iii), by striking the period and inserting a semicolon; and

[(C) by adding at the end the following:

[''(iv) for fiscal year 2006, $110,000,000; and

[''(v) for each of fiscal years 2007 through 2010, such sums as may be necessary.''; and

[(2) in paragraph (2)—

[(A) in the matter preceding subparagraph (A)—

[(i) by striking ''There are hereby authorized'' and inserting ''There are authorized''; and

[(ii) by striking ''(b)(1)(A)'' and inserting ''(b)(1)(B)'';

[(B) in subparagraph (B), by striking ''and'';

[(C) in subparagraph (C), by striking the period and inserting a semicolon; and

[(D) by adding at the end the following:

[''(D) for fiscal year 2006, $220,000,000; and

[''(E) for each of fiscal years 2007 through 2010, such sums as may be necessary.''.

[(e) TECHNICAL AMENDMENT.—Section 340E(e)(2) of the Public Health Service Act (42 U.S.C. 256e(e)(2)) is amended by striking the first sentence.

[SEC. 3. SENSE OF THE SENATE.

[It is the sense of the Senate that perinatal hospitals play an important role in providing quality care and ensuring the best possible outcomes for thousands of seriously ill newborns each year, and that medical training programs at perinatal hospitals give providers essential training in treating healthy mothers and babies as well as patients in neonatal intensive care units.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Hospitals Educational Equity and Research Act'' or the ''CHEER Act''.

SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking ''2005'' and inserting ''2010''.

(b) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 256e(c)) is amended—

(1) in paragraph (1)(B), by inserting ''but without giving effect to section 1886(h)(7) of such Act)'' after ''section 1886(h)(4) of the Social Security Act''; and

(2) in paragraph (2)(E)(ii), by striking ''described in subparagraph (C)(ii)'' and inserting ''applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year''.

(c) NATURE OF PAYMENTS.—Section 340E(e)(3) of the Public Health Service Act (42 U.S.C. 256e(e)(3)) is amended by striking ''made to pay'' and inserting ''made and pay''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking ''and'';

(B) in clause (iii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(iv) for fiscal year 2006, $110,000,000; and

''(v) for each of fiscal years 2007 through 2010, such sums as may be necessary.''; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''There are hereby authorized'' and inserting ''There are authorized''; and

(ii) by striking ''(b)(1)(A)'' and inserting ''(b)(1)(B)'';

(B) in subparagraph (B), by striking ''and'';

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

''(D) for fiscal year 2006, $220,000,000; and

''(E) for each of fiscal years 2007 through 2010, such sums as may be necessary.''.

(e) TECHNICAL AMENDMENT.—Section 340E(e)(2) of the Public Health Service Act (42 U.S.C. 256e(e)(2)) is amended by striking the first sentence.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that perinatal hospitals play an important role in providing quality care and ensuring the best possible outcomes for thousands of seriously ill newborns each year, and that medical training programs at perinatal hospitals give providers essential training in treating healthy mothers and babies as well as patients in neonatal intensive care units.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, 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. 285), as amended, was read the third time and passed.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL—S. RES. 213

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL—S. RES. 214

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of two Senate resolutions which were submitted earlier today, S. Res. 213 and S. Res. 214.

The PRESIDING OFFICER. The clerk will report the resolutions by title, en bloc.

The legislative clerk read as follows:

A resolution (S. Res. 213) to authorize representation by the Senate Legal Counsel in the case of Keyter v. McCain, et al.

A resolution (S. Res. 214) to authorize representation by the Senate Legal Counsel in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al.

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

Mr. FRIST. Mr. President, this resolution concerns a pro se civil action filed against Senators JOHN MCCAIN and JON KYL. Plaintiff complains that the Senator defendants violated their duties under the common law and the Federal Criminal Code by failing to investigate or prosecute the alleged commission of 1.6 million unspecified crimes. Plaintiff seeks $10 million in damages and an order compelling the Senator defendants to investigate or prosecute the alleged crimes.

This suit is subject to dismissal on numerous grounds, including lack of constitutional standing, legislative and qualified immunity, the political question doctrine, as well as on the merits. This resolution authorizes the Senate Legal Counsel to represent the Senator defendants in this suit and to move for its dismissal.

S. RES. 214

Mr. President, this resolution concerns a pro se civil action filed against Senators JOHN MCCAIN, JON KYL, and ''51 percent of the unnamed'' Members of the United States Senate. Plaintiff complains that the Senator defendants violated their oath of office and various provisions of the Constitution by enacting laws contained in Title 25 of the United States Code that allegedly resulted in the denial of plaintiffs rights while employed by a community of Native American tribes. Plaintiff seeks declaratory relief and damages.

This suit is subject to dismissal on numerous grounds, including lack of constitutional standing, legislative and qualified immunity, and failure to state a claim upon which relief may be granted. This resolution authorizes the Senate Legal Counsel to represent the Senator defendants in this suit and to move for its dismissal.

Mr. SESSIONS. I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid on the table en bloc.

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

The resolutions (S. Res. 213 and S. Res 214) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 213

Whereas, in the case of Keyter v. McCain, et al., Civ. No. 05–1923, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(l), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain and Jon Kyl in the case of Keyter v. McCain, et al.

S. RES. 214

Whereas, in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al., Civ. No. 05–1944, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain, Jon Kyl, and other unnamed Members of the Senate in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al.

MEASURE READ THE FIRST TIME—H.R. 1797

Mr. SESSIONS. Mr. President, I understand that there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 1797) to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

Mr. SESSIONS. I now ask for its second reading, and in order to place the bill on the calendar under rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

PROVIDING FOR THE SECRETARY OF HOMELAND SECURITY TO BE INCLUDED IN THE LINE OF PRESIDENTIAL SUCCESSION

Mr. SESSIONS. I ask unanimous consent that the Committee on Rules be discharged from further consideration of S. 442 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 442) to provide for the Secretary of Homeland Security to be included in the line of Presidential succession.

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

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the measure be printed in the RECORD.

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

The bill (S. 442) was read the third time and passed, as follows:

S. 442

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

SECTION 1. SECRETARY OF HOMELAND SECURITY IN PRESIDENTIAL LINE OF SUCCESSION.

Section 19(d)(1) of title 3, United States Code, is amended by inserting ''Secretary of Homeland Security,'' after ''Attorney General,''.

ORDERS FOR WEDNESDAY, JULY 27, 2005

Mr. SESSIONS. Mr. President, on behalf of our leader, BILL FRIST, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., on Wednesday, July 27. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the motion to proceed to S. 397. I further ask consent that the time from 10 a.m. to 2 p.m. be equally divided, with the majority controlling the first hour, the Democrats controlling the second hour, rotating in that fashion until 2 p.m. I further ask consent that at 2 p.m. the Senate proceed to a vote on the motion to proceed.

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

PROGRAM

Mr. SESSIONS. Tomorrow we will continue debate on the motion to pro-

ceed until 2. At 2 p.m. we will vote on the motion to proceed and begin consideration of the bill. As we stated since last week, there are a number of legislative matters to consider before we break for recess. I hope we can finish our work on this bill as expeditiously as possible. Members should be reminded that rollcall votes are expected each day this week until our work is complete.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I ask unanimous cnosent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Wednesday, July 27, at 9:30 a.m.