S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2557

At the request of Mr. HATCH, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2557, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries, and for other purposes.

S. 2662

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2662, a bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2707

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2707, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. 2753

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2753, a bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

S. 2792

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2792, a bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada.

S. 2892

At the request of Mr. KENNEDY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2892, a bill to provide economic security for America's workers.

S. 2898

At the request of Mr. THURMOND, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2898 , a bill for the relief of Jaya Gulab Tolani and Hitesh Gulab Tolani.

S. RES. 307

At the request of Mr. TORRICELLI, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S.Res. 307, A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 322

At the request of Mrs. LINCOLN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S.Res. 322, A resolution designating November 2002, as ''National Epilepsy Awareness Month''.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

AMENDMENT NO. 4552

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4552 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself and Mr. LUGAR)

S. 2952. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail; to the Committee on Energy and Natural Resources.

Mr. BAYH. Mr. President, next year America will celebrate the bicentennial of the cross-country expedition of Meriwether Lewis and William Clark. With what became known as the Corps of Discovery, Lewis and Clark embarked on an epic journey to chart an overland route to the Pacific Ocean, developing a record of its native people and resources. They catalogued varieties of never before seen plant and animal life. In fact, their expedition is seen as a critical precursor to America's great movement to the West.

Less known, but of no less significance to the expedition, are the historic events that occurred at the outset of the journey. I rise today, with my colleague from Indiana, Senator LUGAR, to introduce legislation that recognizes the importance of these events by adding the Falls of the Ohio, in Clarksville, IN and Louisville, KY, to the sites honored and preserved by inclusion on the Lewis and Clark National Historic Trail.

Many historians have detailed the fact that it was the Falls of the Ohio, in Clarksville, IN, that Meriwether Lewis and William Clark met and formed their famous partnership. It was there that they spent 12 days recruiting and enlisting members for their Western expedition in Louisville and southern Indiana for the Corps of Discovery. Ultimately they selected nine men from the area. After establishing their crew, Lewis and Clark set out for the West on the Ohio River from Clarksville on October 26, 1803.

One of the many accounts of the formation of the Corps of Discovery is included in historian Stephen E. Ambrose's work on the expedition, Undaunted Courage. Mr. Ambrose writes that: ''At the foot of the rapids, on the north bank, was Clarksville, Indiana Territory. . . . On October 15, Lewis hired local pilots, who took the boat and pirogues into the dangerous but passable passage on the north bank. Safely through, Lewis tied up at Clarksville and set off to meet his partner.''

''When they shook hands, the Lewis and Clark expedition began.''

And Ambrose continues: ''Word has spread up and down the Ohio, and inland, and young men longing for adventure and ambitious for a piece of land of their own set out for Clarksville to sign up . . . Those selected were sworn into the army in solemn ceremony, in the presence of General Clark, and the Corps of Discovery was born.''

The National Park Service agreed with Mr. Ambrose and other historical sources that the events at the Falls of the Ohio are of important historical significance. The National Park Service certified the Falls of the Ohio State Park as an official site associated with the Lewis and Clark National Historic Trail.

My legislation would simply reiterate the Park Service's conclusion that the events at the Falls of the Ohio are a significant part of the history of the Lewis and Clark expedition and would include the Falls of the Ohio among the areas designated for recognition on the Lewis and Clark National Historic Trail.

The National Council of the Lewis and Clark Bicentennial designated the Falls of the Ohio as the second signature event of the bicentennial, which will be held in October 2003.

The Falls of the Ohio is an integral part of the Lewis and Clark story, which will be uniquely celebrated next year. It is my hope that we can move quickly to pass this legislation to insure that the recognition occurs in time for the much anticipated 200th anniversary of the trail. That way the citizens of Clarksville and Louisville can honor and preserve their local heritage and all students of history can fully follow in the footsteps of Lewis and Clark and experience the birth of the Corps of Discovery at the Falls of the Ohio.

By Mr. CAMPBELL:

S. 2953. A bill to redesignate the Colonnade Center in Denver, Colorado, as the ''Cesar E. Chavez Memorial Building''; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, today I am introducing legislation to name the Federal building located at 1244 Speer Boulevard, Denver, CO., as the ''Cesar E. Chavez Memorial Building.''

Cesar E. Chavez was an ordinary American who left behind an extraordinary legacy of commitment and accomplishment.

Born on March 31, 1927 in Yuma Arizona on a farm his grandfather homesteaded in the 1880's, he began his life as a migrant farm worker at the age of 10 when the family lost the farm during the Great Depression. Those were desperate years for the Chavez family as they joined the thousands of displaced people who were forced to migrate throughout the country to labor in the fields and vineyards.

Motivated by the poverty and harsh working conditions, he began to follow his dream of establishing an organization dedicated to helping these farm workers. In 1962 he founded the National Farm Workers Association which would eventually evolve into the United Farm Workers of America.

Over the next three decades with an unwavering commitment to democratic principals and a philosophy of non-violence he struggled to secure a living wage, health benefits and safe working conditions for arguably the most exploited work force in our country, that they might enjoy the basic protections and workers right to which all Americans aspire.

In 1945, at the age of 18 Cesar Chavez joined the U.S. Navy and served his country for two years. He was the recipient of the Martin Luther King Jr. Peace Prize as well as the Presidential medal of Freedom, the highest award this country can bestow upon a civilian.

Chavez's efforts brought dignity and respect to this country's farm workers and in doing so became a hero, role model and inspiration to people engaged in human rights struggles throughout the world.

The naming of this building will keep alive the memory of his sacrifice and commitment for the millions of people whose lives he touched.

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. 2953

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

SECTION 1. DESIGNATION OF CESAR E. CHAVEZ MEMORIAL BUILDING.

The building known as the Colonnade Center, located at 1244 Speer Boulevard, Denver, Colorado, shall be known and designated as the ''Cesar E. Chavez Memorial Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Cesar E. Chavez Memorial Building.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. WELLSTONE, Mr. LEAHY, and Mr. DAYTON):

S. 2954. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States and local educational agencies to decide the frequency of using high quality assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, as millions of public school students and teachers around the country settle into the new school year, I am introducing a bill that would help to return a measure of local control that was taken from school districts and State educational agencies with the enactment of the No Child Left Behind Act earlier this year.

I am pleased to be joined in this effort by Senators Jeffords, Wellstone, Leahy, and Dayton.

I strongly support maintaining local control over decisions affecting our children's day-to-day classroom experiences. I also believe that the Federal Government has an important role to play in supporting our State educational agencies and local school districts as they carry out one of their most important responsibilities, the education of our children.

I voted against the recently-enacted No Child Left Behind Act in large part because of the new annual testing mandate for students in grades 3–8. While I agree that there should be a strong accountability system in place to ensure that public school students are making progress, I strongly oppose over-testing students in our public schools. I agree that some tests are needed to ensure that our children are keeping pace, but taking time to test students has to take a back seat to taking the time to teach students in the first place.

I have heard a lot about these new annual tests from the people of Wisconsin, and their response has been almost universally negative. My constituents are concerned about this additional layer of testing for many reasons, including the cost of developing and implementing these tests, the loss of teaching time every year to prepare for and take the tests, and the extra pressure that the tests will place on students, teachers, schools, and school districts.

I share my constituents' concerns about this new Federal mandate. I find it interesting that proponents of the No Child Left Behind Act say that it will return more control to the States and local school districts. In my view, however, this massive new Federal testing mandate runs counter to the idea of local control.

Many States and local school districts around the country, including Wisconsin, already have comprehensive testing programs in place. The Federal Government should leave decisions about the frequency of using high quality assessments to measure and increase student academic achievement up to the States and local school districts that bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have heard from many education professionals in my state that this new testing requirement is a waste of money and a waste of time. These people are dedicated professionals who are committed to educating Wisconsin's children, and they don't oppose testing. I think we can all agree that testing has its place. What they oppose is the magnitude of testing that is required by this law.

Beginning in the 2005–2006 school year, the No Child Left Behind Act will pile more tests on our Nation's public school students. And of course, when those tests are piled on students, they burden our teachers as well, because teachers must spend more and more time preparing students to take these exams.

This kind of teaching, sometimes called ''teaching to the test,'' is becoming more and more prevalent in our schools as testing has become increasingly common. The dedicated teachers in our classrooms will now be constrained by teaching to yet more tests, instead of being able to use their own judgment about what subject areas the class needs to spend extra time studying. This additional testing time could also reduce the opportunity for teachers to create and implement innovative learning experiences for their students.

Teachers in my State are concerned about the amount of time that they will have to spend preparing their students to take the tests and administering the tests. They are concerned that these additional tests will disrupt

the flow of education in their classrooms. One teacher said the preparation for the tests Wisconsin already requires in grades 3, 4, 8, and 10 can take up to a month, and the administration of the test takes another week. That is five weeks out of the school year. And now the Federal Government is requiring teachers to take a huge chunk out of instruction time each year in grades 3–8. In my view, and in the view of the people of my State, this time can be better spent on regular classroom instruction.

The legislation that I introduce today, the Student Testing Flexibility Act of 2002, would give State educational agencies, SEAs, and local educational agencies, LEAs, that have demonstrated academic success the flexibility to apply to waive the new annual testing requirements in the No Child Left Behind Act. SEAs and LEAs with waivers would still be required to administer high quality tests to students in, at a minimum, reading or language arts and mathematics at least once in grades 3–5, 6–9, and 10–12 as required under the law.

This bill would allow SEAs and LEAs that meet the same specific accountability criteria outlined for school-level excellence under the State Academic Achievement Award Program to apply to the Secretary of Education for a waiver from the new annual reading or language arts and mathematics tests for students in grades 3–8. The waiver would be for a period of three years and would be renewable, so long as the SEA or LEA met the criteria.

To qualify for the waiver, the SEA or LEA must have significantly closed the achievement gap between a number of subgroups of students as required under Title I, or must have exceeded their adequate yearly progress, AYP, goals for two or more consecutive years. The bill would require the Secretary to grant waivers to SEAs or LEAs that meet these criteria and apply for the waiver. LEAs in states that have waivers would not be required to apply for a separate waiver.

The Federal Government should not impose an additional layer of testing on states that are succeeding in meeting or exceeding their AYP goals or on closing the achievement gap. Instead, we should allow those States that have demonstrated academic success to use their share of Federal testing money to help those schools that need it the most.

The bill I introduce today would do just that by allowing States with waivers to retain their share of the Federal funding appropriated to develop and implement the new annual tests. These important dollars would be used for activities that these states deem appropriate for improving student achievement at individual public elementary and secondary schools that have failed to make AYP.

I am pleased that this legislation is supported by the National PTA, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the Wisconsin Department of Public Instruction, the Wisconsin Education Association Council, the Wisconsin Association of School Boards, the Milwaukee Teachers' Education Association, and the Wisconsin School Administrators Alliance, which includes the Association of Wisconsin School Administrators, the Wisconsin Association of School District Administrators, the Wisconsin Association of School Business Officials, and the Wisconsin Council for Administrators of Special Services.

While this bill focuses on the overtesting of students in our public schools, I would like to note that my constituents have raised a number of other concerns about the No Child Left Behind Act that I hope will be addressed by Congress. In particular, many of my constituents are concerned about the new adequate yearly progress requirements and about finding the funding necessary to implement all of the provisions of this new law. I hope that my bill, the Student Testing Flexibility Act, will help to focus attention on the perhaps unintended consequences that the ongoing implementation of the No Child Left Behind Act will have for States, school districts, and individual schools, teachers, and students.

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. 2954

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 ''Student Testing Flexibility Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) State and local governments bear the majority of the cost and responsibility of educating public elementary school and secondary school students;

(2) State and local governments often struggle to find adequate funding to provide basic educational services;

(3) the Federal Government has not provided its share of funding for numerous federally mandated elementary and secondary education programs;

(4) underfunded Federal education mandates increase existing financial pressures on States and local educational agencies;

(5) the cost to States and local educational agencies to implement the annual student academic assessments required under section 1111(b)(3)(C)(vii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(vii)) remains uncertain;

(6) public elementary school and secondary school students take numerous tests each year, from classroom quizzes and exams to standardized and other tests required by the Federal Government, State educational agencies, or local educational agencies;

(7) multiple measures of student academic achievement provide a more accurate picture of a student's strengths and weaknesses than does a single score on a high-stakes test; and

(8) the frequency of the use of high quality assessments as a tool to measure and increase student achievement should be decided by State educational agencies and local educational agencies.

SEC. 3. WAIVER AUTHORITY.

Section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

''(E) WAIVER AUTHORITY.—

''(i) STATES.—Upon application by a State educational agency, the Secretary shall waive the requirements of subparagraph (C)(vii) for a State if the State educational agency demonstrates that the State—

''(I) significantly closed the achievement gap between the groups of students described in paragraph (2); or

''(II) exceeded the State's adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

''(ii) LOCAL EDUCATIONAL AGENCIES.—Upon application of a local educational agency located in a State that does not receive a waiver under clause (i), the Secretary shall waive the application of the requirements of subparagraph (C)(vii) for the local educational agency if the local educational agency demonstrates that the local educational agency—

''(I) significantly closed the achievement gap between the groups of students described in paragraph (2); or

''(II) exceeded the local educational agency's adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

''(iii) PERIOD OF WAIVER.—A waiver under clause (i) or (ii) shall be for a period of 3 years and may be renewed for subsequent 3-year periods.

''(iv) UTILIZATION OF CERTAIN FEDERAL FUNDS.—

''(I) PERMISSIVE USES.—Subject to subclause (II), a State or local educational agency granted a waiver under clause (i) or (ii) shall use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to carry out educational activities that the State educational agency or local educational agency, respectively, determines will improve the academic achievement of students attending public elementary schools and secondary schools in the State or local educational agency, respectively, that fail to make adequate yearly progress (as defined in paragraph (2)(C)).

''(II) NONPERMISSIVE USE OF FUNDS.—A State or local educational agency granted a waiver under clause (i) or (ii) shall not use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to pay a student's cost of tuition, room, board, or fees at a private school.''.

By Mr. BROWNBACK (for himself and Mr. GREGG):

S. 2955. A bill to improve data collection and dissemination, treatment, and research relating to cancer, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, today, I am proud to join with the ranking member of the Senate HELP Committee in introducing and the National Cancer Act of 2002. We believe that this is the proverbial first step of the thousand mile journey toward the

goal of making cancer death rare by the year 2015.

First, I would be remiss if I failed to point out that we are not the first in the Senate to drop a cancer bill. Indeed, fired the first salvo in our Nation's conflict with cancer with the passage of the National Cancer Institute Act back in 1937. This law, established the National Cancer Institute, (NCI), within the public health service and directed the Surgeon General to promote cancer research.

In 1971, responding to the call of President Nixon, Congress officially declared war on cancer with the passage of the National Cancer Act of 1971. This law established the Director of the National Cancer Institute as one of two Presidentially appointment posts within all of the National Institutes of Health. In addition, the '71 Act gave the Director the ability to bypass the normal budget process and submit the NCI budget directly to the President, a privilege that is entirely unique throughout the Executive Branch. With our declaration of war our Nation saw the establishment of the President's Cancer Panel, the National Cancer Advisory Board, the International Cancer Research Data Bank and the first cancer center. The stated goal of the country that had just landed a man on the moon was to cure cancer within a decade.

Since 1971, we have seen 31 years pass, six Presidents sworn in, 15 sessions of Congress, and ten different bills signed into law with the goal of ending the prolonged war on cancer. This year over half a million Americans will die from cancer. It is for them, and for the 1.2 million Americans who will be diagnosed with cancer, and for the millions of cancer survivors who are living beyond this disease that we introduce this bill today.

Ours is the time is history when we must reinvigorate the battle. Thanks to advances in treatment and increased screening and early detection, between 1990 and 1997, for the first time in history, the number of cancer deaths and diagnoses have declined. However, to whom much is given, much is expected. The National Cancer Act of 2002, answers the call and lays out a battle plan for the next, and hopefully final attack in the war on cancer.

Mr. GREGG. Mr. President, I am very pleased this morning to introduce this bill with my good friend Senator BROWNBACK. Our bill, the National Cancer Act of 2002, is an important step forward in making survivorship of cancer the rule in this Nation and cancer mortality the rare exception. I want to thank our good friends in the cancer and pain care communities who have provided critical feedback during the development of the Act. Our bill will: Enhance coordination between State registries and between those registries and Federal cancer control and research efforts, with a focus on developing interoperability and compatible hardware/software infrastructure. Reauthorize the successful CDC Breast and Cervical Cancer screening program, with expansion encouraged for colorectal cancer screening. Improve NIH efforts in the area of pain and palliative care research and dissemination of information to patients and providers. Expand access for patients to experimental therapies, both in NIH-funded clinical trials, privately-funded manufacturer trials and access for terminal patients to therapies that have not yet been approved by FBA. Encourage Congress and the Administration to address several of the most significant cancer-related problems in the Medicare system.

I look forward to working with my colleagues on the HELP Committee to move this important piece of legislation this year. I know that we all share the agenda of combating this public health problem facing so many Americans.

By Mr. FEINGOLD:

S. 2956. A bill to require the Secretary of Homeland Security to submit a semi-annual report to Congress regarding the effectiveness with which information is exchanged between the Department of Homeland Security, the Federal Bureau of Investigation, and State and local law enforcement authorities; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, first let me commend the Chairman and Ranking Member of the Governmental Affairs Committee for all of their efforts in crafting the Homeland Security measure before the Senate today.

As I have listened to the various proposals to create a Department of Homeland Security one of my primary concerns is what are we going to do to improve the role of the FBI as an intelligence gathering agency. I rise today to introduce legislation on this matter, and I send a copy of this legislation to the desk.

I also rise to offer the same legislation as an amendment to the Homeland Security bill, and I send a copy of the amendment to the desk.

The need for this amendment is clear. We have heard, over and over again, that one of the chief purposes of the new Department is to enable one agency to serve as a central clearinghouse for all terrorism related information, regardless of the source. For the consumers of intelligence information, like the Department of Homeland Security, it should not matter whether the information comes from a CIA agent in the Middle East, an FBI agent listening to a wire-tap from overseas or a cop on a street corner in New York City.

I am concerned that we have not done enough to insure that the relevant information gathered by the FBI is passed on to those who can analyze it and evaluate a potential threat against our Nation's safety. Simply put, I wonder about what type of information the FBI will be providing to the new Department and what the new Department will do with the information. I am concerned about the lack of policies and procedures in place for the new Department to request follow-up investigation from the FBI and local law enforcement.

I have offered this amendment, entitled the Intelligence Analysis Reporting Act of 2002, to assist Congress in determining if the division of investigative responsibilities between the Department of Homeland Security and the FBI is working effectively. This amendment will provide Congress with the information necessary to determine if the FBI is taking competent steps to provide information to the new Department and to respond to intelligence requests in a useful manner.

Presently, the FBI does not have the technological nor personnel capacity to provide information to the Department of Homeland Security or to any other intelligence agency in a highly useful form. This is because criminal investigations, which involve grand jury testimony, witness interviews and wire-taps, are not conducive to the standards of intelligence gathering which require some sifting of the material before it is disseminated to consumers like a Department of Homeland Security.

This amendment would require the new Department to report to Congress on policies and procedures implemented to insure that it can adequately request information and investigation from the FBI and local law enforcement. In addition, it requires the Department of Homeland Security to report on what types of intelligence information have been turned over such as summary interviews, transcripts and warrants from the FBI and other law enforcement agencies.

I firmly believe that no matter how many agencies are moved into a Department of Homeland Security or how much money we spend on putting up a new building, the only test of our success will be how effective we are in protecting ourselves against future threats. This amendment will allow us to determine if the critical intelligence information we need to prevent a possible attack is being provided to people at the Department of Homeland Security who can act on it promptly and effectively.

I urge my colleagues to support this measure.

By Mr. JOHNSON:

S. 2963: A bill to reform the United States Army Corps of Engineers; to the Committee on Environment and Public Works.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2963

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 ''Corps of Engineers Reform Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CORPS.—The term ''Corps'' means the Corps of Engineers.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

SEC. 3. INLAND WATERWAY REFORM.

(a) CONSTRUCTION.—Section 102(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2212(a)) is amended—

(1) in the first sentence, by striking ''One-half of the costs of construction'' and inserting ''Forty-five percent of the costs of construction''; and

(2) by striking the second sentence and inserting ''Fifty-five percent of those costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.''.

(b) OPERATION AND MAINTENANCE.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

''(b) OPERATION AND MAINTENANCE.—

''(1) FEDERAL SHARE.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

''(A) a project described in paragraph (1) or (2) of subsection (a); or

''(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

''(2) SOURCE OF FEDERAL SHARE.—

''(A) GENERAL FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 1 cent per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

''(B) GENERAL FUND AND INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 1 but less than or equal to 10 cents per ton mile—

''(i) 45 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

''(ii) 55 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(C) INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.''.

SEC. 4. INDEPENDENT REVIEW.

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term ''affected State'', with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) DIRECTOR.—The term ''Director'' means the Director of Independent Review appointed under subsection (c)(1).

(b) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that each draft feasibility report, draft general reevaluation report, and draft environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $30,000,000, including mitigation costs;

(B) the Governor of an affected State, or the Director of a Federal agency with jurisdiction over resources affected by the proposed project requests the establishment of a panel of independent experts to review the project; and

(C) the Secretary determines under paragraph (3) that the proposed project is controversial.

(3) WRITTEN REQUESTS.—Not later than 30 days after the date on which the Secretary receives a written request of an interested party, or on the initiative of the Secretary, the Director shall determine whether a water resources project is controversial.

(c) DIRECTOR OF INDEPENDENT REVIEW.—

(1) APPOINTMENT.—The Secretary of the Army shall appoint in the Office of the Inspector General of the Department of the Army a Director of Independent Review.

(2) QUALIFICATIONS.—The Secretary of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) LIMITATION ON APPOINTMENTS.—The Army Inspector General shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a strong financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) TERMS.—

(A) IN GENERAL.—The term of a Director appointed under this subsection shall be 6 years.

(B) TERM LIMIT.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) DUTIES.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—After the date on which the Secretary issues a draft feasibility report, draft general reevaluation report, or draft environmental impact statement relating to a water resources project that is subject to review under subsection (b)(2), the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a water resources project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, engineers, and economists) who represent a range of areas of expertise.

(3) LIMITATION ON APPOINTMENTS.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a strong financial interest in the project.

(4) CONSULTATION.—The Director may consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General.

(6) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—A panel of experts established for a water resources project under this section shall—

(1) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project to identify—

(A) technical errors;

(B) outdated and inaccurate data; and

(C) flawed economic and environmental methodologies and models;

(2) receive from the public written and oral comments concerning the project; and

(3) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analysis of the project, including the conclusions and recommendations of the panel.

(f) DURATION OF PROJECT REVIEWS.—Not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete each required review of the project and all other duties of the panel relating to the project.

(g) FINAL ISSUANCE OF REPORTS AND STATEMENTS.—Before issuing a final feasibility report, final general reevaluation report, or final environmental impact statement for a water resources project, the Secretary shall—

(1) take into consideration any recommendations contained in the report described in subsection (e)(3) for the water resources project; and

(2) prepare and include in the final feasibility report, final general reevaluation report, or final environmental impact statement—

(A) the report of the panel; and

(B) for any recommendations of the panel not adopted by the Secretary, a written explanation of the reasons why the recommendations were not adopted.

(h) COSTS.—The cost of conducting a review of a water resources project under this section—

(1) shall not exceed $250,000;

(2) shall be considered to be part of the total cost of the project; and

(3) shall be a Federal expense.

(i) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 5. MITIGATION.

(a) CONCURRENT MITIGATION.—Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking ''(a)(1) In the case'' and inserting the following:

''(a) MITIGATION.—

''(1) IN GENERAL.—In the case'';

(2) in paragraph (1), by indenting subparagraphs (A) and (B) appropriately;

(3) in paragraph (2), by striking ''(2) For the purposes'' and inserting the following:

''(3) COMMENCEMENT OF CONSTRUCTION.—For the purposes''; and

(4) by inserting after paragraph (1) the following:

''(2) IMPLEMENTATION OF MITIGATION.—

''(A) IN GENERAL.—To ensure concurrent mitigation, the Secretary shall implement required mitigation under paragraph (1) as expeditiously as practicable, but not later than—

''(i) the last day of construction of the project or separable element of the project; or

''(ii) in a case in which completion of mitigation by the date described in clause (i) is physically impracticable because 1 or more sites for the remaining mitigation are or will be disturbed by project construction (as determined by the Secretary), not later than the end of the next fiscal year immediately following the last day of construction.

''(B) AVAILABILITY OF FUNDS.—Funds made available for preliminary engineering and design, construction, or operations and maintenance may be used to carry out this subsection.''.

(b) FULL MITIGATION.—Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PLANS AND PROPOSALS.—

''(A) IN GENERAL.—After November 17, 1986, the Secretary shall not submit any proposal for the authorization of any water resources project to Congress, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the proposal contains—

''(i) a specific plan to fully mitigate fish and wildlife losses created by the project; or

''(ii) a determination by the Secretary that the project will have negligible adverse impact on fish and wildlife.

''(B) FORESTS.—A specific mitigation plan described in subparagraph (A)(i) shall ensure, to the maximum extent practicable, that impacts to bottomland hardwood forests are mitigated in kind.

''(C) CONSULTATION.—In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.''; and

(2) by adding at the end the following:

''(3) STANDARDS FOR MITIGATION.—

''(A) IN GENERAL.—The Secretary shall not recommend a water resources project alternative or select a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan has a high probability of successfully mitigating the adverse impacts of the project on aquatic and other resources, hydrologic functions, and fish and wildlife.

''(B) REQUIREMENTS.—A mitigation plan described in subparagraph (A) shall—

''(i) provide for the acquisition and restoration of at least 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat negatively affected by the project;

''(ii) ensure that mitigation will result in replacement of all functions of the habitat negatively affected by the project, including—

''(I) spatial distribution; and

''(II) natural hydrologic and ecological characteristics;

''(iii) contain sufficient detail regarding the mitigation sites and restoration activities selected to permit a thorough evaluation of—

''(I) the likelihood of the ecological success of the plan; and

''(II) resulting aquatic and other resource functions and habitat values;

''(iv) include a detailed and specific plan to monitor mitigation implementation and success; and

''(v) include specific ecological success criteria by which the success of the mitigation will be evaluated.''.

(c) MITIGATION TRACKING SYSTEM.—Section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283) is amended by adding at the end the following:

''(h) MITIGATION TRACKING SYSTEM.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish a recordkeeping system to track for each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

''(A) the quantity and type of wetland and other types of habitat affected by the project or permitted activity;

''(B) the quantity and type of mitigation required for the project or permitted activity;

''(C) the quantity and type of mitigation that has been completed for the project or permitted activity; and

''(D) the status of monitoring for the mitigation carried out for the project or permitted activity.

''(2) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

''(A) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

''(B) be organized by watershed, project, permit application, and zip code.

''(3) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public (including through the Internet).''.

SEC. 6. MODERN ECONOMIC AND ENVIRONMENTAL STANDARDS.

Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

''SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

''(a) IN GENERAL.—It is the intent of Congress that economic development and environmental protection and restoration be coequal goals of water resources planning and development.

''(b) REVISION OF PRINCIPLES AND GUIDELINES.—Not later than 1 year after the date of enactment of the Army Corps Reform Act of 2002, the Secretary of the Army, in consultation with the National Academy of Sciences, shall revise the principles and guidelines of the Corps of Engineers for water resources projects (consisting of Engineer Regulation 1105–2–100 and Engineer Pamphlet 1165–2–1) to reflect modern methods of measuring benefits and costs of water resources projects.

''(c) REVISION OF GUIDANCE.—The Secretary of the Army shall revise the Guidance for Conducting Civil Works Planning Studies (ER 1105–2–100) to comply with this section.''.

By Mr. LEVIN (for himself, Ms. COLLINS, Ms. STABENOW, Mr. DEWINE, Mr. REED, Mr. WARNER, Mr. DURBIN, Mr. FITZGERALD, Mr. AKAKA, Mr. VOINOVICH, Mr. INOUYE, Ms. CANTWELL, Mr. KENNEDY, and Mr. BAYH):

S. 2964. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

THE NATIONAL AQUATIC INVASIVE SPECIES ACT OF 2002 (NAISA)

Ms. STABENOW. Mr. President, I would like to express my strong support for the National Acquatic Invasive Species Act of 2002 (NAISA)

Last year, I introduced S. 1034, the Great Lakes Ecology Protection Act which sought to curb the influx of invasive species into the Great Lakes. This is an immense task, as more than 87 nonindigenous aquatic species have been accidentally introduced into the Great Lakes in the past century. I am proud to say that this bill had strong bipartisan support with 12 Great Lakes Senators as original cosponsors.

Today, I am proud to join Senator LEVIN as an original cosponsor of NAISA which will provide a national strategy for preventing invasive species from being introduced in the Great Lakes and our Nation's waters. I am also pleased that NAISA incorporates many of the ideas from the Great Lakes Ecology Protection Act in formulating a national standard.

Invasive species have had a devastating economic and ecological impact on the U.S. They have already damaged the Great Lakes in a number of ways. They have destroyed thousands of fish and threatened our clean drinking water.

For example, Lake Michigan once housed the largest self-reproducing lake trout fishery in the entire world. The invasive sea lamprey, which was introduced from ballast water almost 80 years ago, has contributed greatly to the decline of trout and whitefish in the Great Lakes by feeding on and killing native trout species.

Today, lake trout must be stocked because they cannot naturally reproduce in the lake. Many Great Lakes States have had to place severe restrictions on catching yellow perch because invasive species such as the zebra mussel disrupt the Great Lakes' ecosystem and compete with yellow perch for food. The zebra mussel's filtration also increase water clarity, which may be making it easier for predators to prey upon the yellow perch. Moreover, tiny organisms like zooplankton that help from the base of the Great Lakes food chain, have declined due to consumption by exploding populations of zebra mussels.

We have made progress on preventing the spread of invasive species, but we have not yet solved this problem. NAISA will create a mandatory national ballast water management program to prevent the introduction of invasive species into our waters, as well as, encourage the development of new ballast treatment technology to eliminate invasive species. NAISA also will greatly increase research funding for these treatment and prevention technologies, and provide necessary funding and resources for invasive species rapid response plans. In addition, the bill will increase outreach and education to recreational boaters and the general public on how to prevent the spread of invasive species.