

repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

## S. CON. RES. 6

At the request of Ms. LANDRIEU, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Mr. BREAU), the Senator from Florida (Mr. NELSON), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. DODD), the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUE), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. Con. Res. 6, A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Daniel "Chappie" James, the Nation's first African-American four-star general.

## S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Georgia (Mr. MILLER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. BOND), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. NICKLES), the Senator from Michigan (Mr. LEVIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 7, A concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

## S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

## S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. ENSIGN, Mr. ALLARD, Mr. MILLER, and Mr. CRAPO):

S. 611. A bill to amend the Internal Revenue Code of 1986 to treat gold, silver, and platinum, in either coin or bar form, in the same manner as stocks and bonds for purposes of the maximum capital gains rate for individuals; to the Committee on Finance.

Mr. REID. Mr. President, last Congress, I introduced the Fair Treatment for Precious Metals Investors Act to correct a flawed capital gains tax definition, which includes precious metals investments as "collectibles." This simple flaw in the tax code has discouraged investments in gold and other precious metals for nearly fifteen years. I rise today to reintroduce the Fair Treatment for Precious Metals Investors Act to correct this problem.

My State, Nevada, is the third largest producer of gold in the world behind Australia and South Africa. Largely because of Nevada's exports, America enjoys a good trade surplus of more than \$1 billion. U.S. gold is purchased around the world in financial markets from London to Zurich to Hong Kong.

Historically, precious metals investments derived their value from their rarity. Today, however, precious metals coins and bars are specifically designed and produced by governments to be used as an investment vehicle for those commodities similar to stocks and bonds. My legislation will correct the outdated tax classification of precious metal bullion and apply to precious metals holdings the same capital gains tax treatment as stocks, bonds, and mutual funds.

In 1997 and 1998, The Taxpayer Relief Act and the Internal Revenue Service Restructuring and Reform Act set two basic types of capital gains tax rates: short-term capital gains, which are taxed at between 15 and 39.6 percent, and long-term capital gains which are taxed at a maximum rate of 20 percent. Long-term capital gains attributable to investments defined as "collectibles", (vintage wines, rare coins, and the like), however, are taxed at a maximum rate of 28 percent. Although precious metal bullion coins are intended to be used as investments in the precious metals they contain, they are still classified as "collectibles", and

are taxed at the 28 percent maximum rate. The Taxpayer Relief Act allowed precious metal bullion coins held in IRA accounts to be taxed at the same rate as stocks and other capital assets. The bill I introduce today would treat all precious metal investments with the same tax equity.

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. 611

*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 "Fair Treatment for Precious Metals Investors Act".

## SEC. 2. GOLD, SILVER, AND PLATINUM TREATED IN THE SAME MANNER AS STOCKS AND BONDS FOR MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (A) of section 1(h)(6) of the Internal Revenue Code of 1986 (relating to definition of collectibles gain and loss) is amended by striking "without regard to paragraph (3) thereof" and inserting "without regard to so much of paragraph (3) thereof as relates to palladium and the bullion requirement for physical possession by a trustee".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

By Mr. BENNETT:

S. 612. A bill to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I rise today to introduce the "Glen Canyon National Recreation Area Boundary Revision Act."

This legislation will revise the total acreage within the National Recreation Area's, NRA, boundary to reflect the actual acreage within the NRA, and it will also do much to protect the scenic view of Lake Powell as seen by those traveling along U.S. Highway Route 89.

As enacted into law, the enabling legislation for the Glen Canyon National Recreation Area, inaccurately reflected the acreage within the NRA boundary. This legislation would correct the acreage ceiling by estimating the acreage within the NRA to be 1,256,000 instead of 1,236,880.

Secondly, this bill would authorize the Secretary of the Interior, to exchange 320 NRA acres for 152 acres of privately owned land in Kane County, UT. Currently, Page One L.L.C. owns 152 acres between U.S. Highway 89 and the southwestern shore of Lake Powell. This private land provides a breathtaking view of Lake Powell from Highway 89, which is the main viewshed corridor between the highway and the lake. This land also encompasses three highway access rights-of-way and a developed culinary water well. In an effort to protect this viewshed and better manage its boundaries along its most visited entrance, the National Park

Service, NPS, has been negotiating with Page One to exchange 370 acres of NRA lands for these 152 acres. The approximate value of the NRA lands is \$480,000 whereas the private land's appraised value is \$856,000. Page One has agreed to donate the balance of appraised value to the NPS.

By authorizing this land exchange, this bill will allow the NPS to preserve and better manage the corridor between the park and Highway 89, which affords such a scenic view of Lake Powell. This boundary change would not add any facilities, increase operating costs, or require additional staff and as such, it will not add to the NPS maintenance backlog.

Because of the common interest in preserving this scenic corridor from development, this legislation has garnered the support of the administration, the Kane County Planning and Zoning Commission, the National Parks Conservation Association, and the Southern Utah Planning Advisory Council. In light of the benefits provided by and community support for this proposal, I look forward to working with my Senate colleagues and the administration to pass this legislation this year.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 613. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing a bill to facilitate the move of the Denver Veterans Affairs Medical Center, DVAMC, from its present site in Denver to the former Fitzsimons Army Medical Center in Aurora, Colorado. I am pleased to be joined in this effort by my friend and colleague Senator ALLARD as an original co-sponsor.

The bill would authorize the Secretary of Veterans Affairs to construct, lease or modify major medical facilities at the site of the former Fitzsimons Army Medical Center. It instructs the Secretary to work with the Department of Defense in planning a joint Federal project that would serve the health care needs of active duty Air Force and the VA. It would also require the Secretary to submit a report to the Committees on Appropriations and the Committees on Veterans Affairs of the Senate and the House of Representatives. This report would detail the options selected by the Secretary and any information on further planning needed to carry out the move.

The relocation of the DVAMC to the former Fitzsimons site offers a unique opportunity to provide the highest quality medical care for our veterans and certain members of our military. The University of Colorado Health Sciences Center, UCHSC, is moving its facilities from its overcrowded location

near downtown Denver to the Fitzsimons site, a decommissioned Army base. The UCHSC and the DVAMC have long operated on adjacent campuses and have shared faculty, medical residents, and access to equipment. A DVAMC move to the new location in conjunction with the DOD would allow such cost-effective cooperation to continue, for the benefit of our veterans, active duty Air Force members and all taxpayers.

The need to move is pressing. A recent VA study concludes that the Colorado State veterans' population will experience one of the highest percent increases nationally in veterans age 65 and over between 1990 and 2020. The present VA hospital was built in the 1950's. While still able to provide service, the core facilities are approaching the end of their useful lives and many of the patient care units have fallen horribly out of date. Studies indicate that co-location with the University on a state-of-the-art medical campus would be a cost effective way to give veterans and active duty Air Force members in the region the highest quality of care. The move would also provide a tremendous opportunity to showcase a nationwide model of cooperation between the University, the Department of Veterans Affairs, VA, and the Department of Defense.

The VA needs to move quickly. Assisting our veterans with their medical needs is a promise we, as a country, made long ago.

The savings we can realize by approving the timely transfer of our veterans' medical treatment facilities in the Denver region compels me to urge my colleagues to act quickly on this bill. We must not miss out on this opportunity to serve America's veterans and their families by ensuring that they receive the excellent medical care they deserve.

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. 613

*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 "Veterans' New Fitzsimons Health Care Facilities Act of 2003".

#### SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS, FORMER FITZSIMONS ARMY MEDICAL CENTER, AURORA, COLORADO.

(a) AUTHORIZATION.—The Secretary of Veterans Affairs may carry out major medical facility projects under section 8104 of title 38, United States Code, at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado. Projects to be carried out at such site shall be selected by the Secretary and may include inpatient and outpatient facilities providing acute, sub-acute, primary, and long-term care services. Project costs shall be limited to an amount not to exceed a total of \$300,000,000 if a combination of direct construction by the Department of Veterans

Affairs and capital leasing is selected under subsection (b) and no more than \$30,000,000 per year in capital leasing costs if a leasing option is selected as the sole option under subsection (b).

(b) SELECTION OF CAPITAL OPTION.—The Secretary of Veterans shall select the capital option to carry out the authority provided in subsection (a) of either—

(1) direct construction by the Department of Veterans Affairs or a combination of direct construction and capital leasing; or

(2) capital leasing alone.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal years 2004, 2005, 2006, and 2007 for "Construction, Major Projects" for the purposes authorized in subsection (a)—

(1) a total of \$300,000,000, if direct construction, or a combination of direct construction and capital leasing, is chosen pursuant to subsection (b) for purposes of the projects authorized in subsection (a); and

(2) \$30,000,000 for each such fiscal year, if capital leasing alone is chosen pursuant to subsection (b) for purposes of the projects authorized in subsection (a).

(d) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004, 2005, 2006, or 2007 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004, 2005, 2006, or 2007 for a category of activity not specific to a project.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on this section. The report shall include notice of the option selected by the Secretary pursuant to subsection (b) to carry out the authority provided by subsection (a), information on any further planning required to carry out the authority provided in subsection (a), and other information of assistance to the committees with respect to such authority.

#### SEC. 3. JOINT ACTIVITIES TO ADDRESS HEALTH CARE NEEDS OF VETERANS AND MEMBERS OF THE AIR FORCE.

The Secretary of Veterans Affairs and the Secretary of the Air Force shall undertake such joint activities as the Secretaries consider appropriate to address the health care needs of veterans and members of the Air Force on active duty.

By Ms. COLLINS (for herself, Mr. JEFFORDS, Mr. CHAFEE, Mr. KERRY, Mrs. HUTCHISON, Mr. REED, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DORGAN, and Mr. LEAHY):

S. 616. A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce the Mercury Reduction Act of 2003. I am pleased that my colleagues, Senators JEFFORDS,

CHAFEE, KERRY, HUTCHISON, REED, LIEBERMAN, VOINOVICH, DORGAN, and LEAHY have joined me in this initiative. Our legislation addresses the very serious problems of mercury in the environment and mercury disposal. It takes special aim at one of the most common and widely distributed sources of mercury mercury fever thermometers while also for the first time creating a nationwide policy for dealing with surplus mercury.

Mercury is a potent neurotoxin that is widespread in the environment and particularly harmful to developing children. In fact, according to a draft report recently released by the EPA, approximately 5 million American women of childbearing age have mercury levels in their bloodstream above safe levels. Tragically, the children of these women will have an elevated risk of birth defects.

When mercury enters the environment, it takes on a highly toxic organic form known as methylmercury. Methylmercury is almost completely absorbed into the blood and distributed to all tissues including the brain. This organic mercury can accumulate in the food chain and become concentrated in some species of fish, posing a health threat to some people who consume them. For this reason, 40 States have issued freshwater fish advisories that warn certain individuals to restrict or avoid consuming fish from affected bodies of water.

One prevalent source of mercury in the environment is from mercury fever thermometers. Many of us know from personal experience that they are easily broken. In fact, in 1998 the American Poison Control Center received 18,000 phone calls from consumers who had broken mercury thermometers.

One mercury thermometer contains a little under one gram of mercury. Despite its small size, the mercury in one thermometer, if it were released annually into the environment, is enough to contaminate all the fish in a 20-acre lake.

The bill we are introducing today calls for a nationwide ban on the sale of mercury fever thermometers. It would also provide grants for swap programs to help consumers exchange mercury thermometers for digital or other alternatives.

Our legislation would allow millions of consumers across the Nation to receive free digital thermometers in exchange for their mercury thermometers. By bringing mercury thermometers in for proper disposal, consumers will ensure the mercury from their thermometers does not end up polluting our lakes and threatening our health. It will also reduce the risk of breakage and contamination inside the home.

An important component of our bill is the safe disposal of the mercury collected from thermometer exchange programs, which are increasingly popular in communities throughout our country. I want to make sure that we

are actually removing surplus mercury from the environment and from commerce, rather than simply recycling it. It obviously does little good to collect all this mercury from thermometer exchange programs if it is going to be recycled into new products and put back into commerce and eventually into our environment. This bill directs the EPA to ensure that the mercury is properly collected and stored in order to keep it out of the environment and out of commerce. Once the mercury is collected, my intention is it will never again be able to pose a threat to the health of our children.

The mercury collected from thermometer exchange programs is only part of the problem. There is a bigger problem, and that is the global circulation of mercury. Let me give an example. When the HoltraChem manufacturing plant in Orrington, ME, shut down a few years ago, the plant was left with over 100 tons of unwanted mercury and no known way to permanently and safely dispose of it. In total, about 3,000 tons of mercury is held at similar plants across the country.

Yet despite this surplus mercury, large amounts of mercury are still being mined around the world. In addition, the Department of Defense currently has a stockpile of over 4,000 tons of surplus mercury it does not know what to do with and for which it does not have any use.

In view of these facts, why are Algeria and other countries still mining huge amounts of an element that is a known neurotoxin, when the United States and other countries are doing their best to remove this extremely toxic element from the environment? How will the United States dispose of the huge amounts of mercury at chlor-alkali plants and other sources that no longer are understood?

Our bill would create an interchange task force to address these very questions. The task force would be chaired by the Administrator of the Environmental Protection Agency and would be comprised of members from other Federal agencies involved with mercury. Our legislation directs this task force to find ways to reduce the mercury threat to humans and to our environment, to identify long-term means of disposing of mercury safely and properly, and to address the excess mercury problems from mines as well as industrial sources. This task force would also be directed to identify comprehensive solutions to the global mercury problem. One year from the creation of this task force, it would be required to submit its recommendations to the Congress for permanently disposing of mercury and for reducing the amount of new mercury mined every year.

In the meantime, this legislation would make significant progress toward reducing one of the most widespread sources of mercury contamination in the environment, a source that is found in many of our homes; that is,

the mercury thermometer. Perhaps even more important, this legislation would, for the first time ever, establish a national policy, which is what we need to deal with surplus mercury in order to protect our environment in the long term, as well as our health, and particularly the health of developing children, from this highly toxic element.

I hope many more of my colleagues will join me in cosponsoring this legislation and that it will be signed into law this year.

By Mr. LIEBERMAN (for himself, Mr. FEINGOLD, Mr. DASCHLE, Mr. DURBIN, Ms. MIKULSKI, Mr. SCHUMER, Mr. KENNEDY, Mr. DODD, Ms. LANDRIEU, and Mr. KERRY):

S. 617. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce the No Taxation Without Representation Act of 2003 legislation that will right an ongoing injustice experienced by 600,000 American citizens—the citizens of the District of Columbia—who have historically been denied voting representation in Congress.

This injustice is felt directly by District residents, but it is also a stain on the fabric of our democracy for the Nation as a whole. By now, we should all understand that the vote is a civic entitlement of every American citizen. It is democracy's most essential right, our most useful tool.

I am proud to be the chief Senate sponsor of this bill, which Congresswoman NORTON is also today introducing in the House. I am delighted that Senator FEINGOLD, who has worked with me for two years on this legislation, is joining me again as an original sponsor, as are Senators DASCHLE, DURBIN, MIKULSKI, SCHUMER, KENNEDY, DODD, LANDRIEU and KERRY. The aim of the legislation is simple: It would provide full voting representation in Congress—through two senators and a member of the House—to citizens of the District, providing to them the same rights to participate in our democracy as citizens in the 50 States. Despite this bill's title, it would not exempt residents of the District from paying income taxes.

Last year, the Governmental Affairs Committee, which I then chaired, held a hearing on this issue in May. It was the first time since 1994 that Congress had held a hearing on the issue. Five months later, in October, the Committee reported out legislation identical to the bill we introduce today. I am proud that we progressed as far as we did last year. Unfortunately it was not far enough.

Today, I think it is particularly ironic—though painfully so—that we are introducing this legislation as the Nation stands on the brink of a decision

about war with Iraq to protect our national security. If war does come, citizens of Washington D.C. will serve their fellow Americans with pride, as they have in every previous war. In fact, the District suffered more casualties in Vietnam than the citizens of 10 states. Furthermore, over 1,000 Army and Air National Guardsmen and women from the District have already been called upon to help in the war on terrorism. Yet—to our shame—D.C. citizens cannot choose representatives to the legislature that governs them. There is something wrong with this picture.

The people of this city have also been the direct target of terrorists, and yet citizens of the District have no one who can cast a vote in Congress on policies to protect their homeland security. Citizens of Washington, D.C., pay income taxes just like everyone else. Actually, they pay more. Per capita, District residents have the second highest Federal tax obligation. And yet they have no say in how high those taxes will be or how their tax dollars will be spent.

They fight and die and pay for our democracy, but they cannot participate fully in it. How can we countenance this? How can we promote democracy abroad effectively while denying it to hundreds of thousands of citizens in our Nation's Capital?

The citizens who live in our Nation's Capital deserve more than a nonvoting delegate

in the House. Notwithstanding the strong service of the Honorable Congresswoman ELEANOR HOLMES NORTON and her ability to vote in committee, a representative without the power to vote on the floor of the House simply isn't good enough.

Prior to the District's establishment in 1790, residents of the area who were eligible to vote had full representation in Congress. When the framers of the Constitution placed our Capital under the jurisdiction of the Congress, they placed with Congress the responsibility of ensuring that D.C. citizens' rights would be protected in the future, just as Congress should protect the rights of all citizens throughout the land. For more than 200 years, Congress has failed to meet this obligation. And I, for one, am not prepared to make D.C. citizens wait another 200 years.

Today, no other democratic nation denies the residents of its capital representation in the national legislature. What must visitors from around the world think when they come to see our beautiful landmarks, our monuments, and our Capitol dome—proud symbols of the world's leading democracy—only to learn that the citizens of this city have no voice in Congress? What would we do if the residents of Boston, Nashville, Denver, Seattle, or El Paso had no voting rights? All those cities are roughly the same size as Washington, D.C.—and I know we as a Nation wouldn't let their citizens go voiceless in the Congress.

Incredibly, the vast majority of Americans already believe that D.C. residents have voting representation in the Congress. When they are informed that they don't, 80 percent of Americans, according to one poll, say that they should. That is overwhelming support and by righting this wrong, we will be following the will of the American people.

The people of the District of Columbia have been without this key right for far too long. I urge all of my colleagues to support this legislation.

By Mr. REID (for himself and Mr. ENSIGN):

S. 618. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes; to the Committee on Indian Affairs.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to reintroduce the Western Shoshone Claims Distribution Act. Last year the Senate unanimously passed this bill, which will at last release funds the United States has held in trust for the Western Shoshone people for over 24 years. Unfortunately the House was unable to complete its consideration of the bill before the last Congress adjourned.

Historically, the Western Shoshone people have resided on land within the central portion of Nevada and parts of California, Idaho, and Utah. For more than a hundred years, the Western Shoshone have not received a fair compensation for the loss of their tribal land and resources. In 1946 the Indian Claims Commission was established to compensate Indians for lands and resources taken from them by the United States. In 1962 the commission determined that the Western Shoshone land had been taken through "gradual encroachment." In 1977 the commission awarded the tribe in excess of \$26 million dollars. The United States Supreme Court has upheld the commission's award. It was not until 1979 that the United States appropriated over \$26 million dollars to reimburse the descendants of these tribes for their loss.

The Western Shoshone are not a wealthy people. A third of the tribal members are unemployed; for many of those who do have jobs, it is a struggle to live from paycheck to the next. Wood stoves often provide the only source of heat in their aging homes. Like other American Indians, the Western Shoshone continue to be disproportionately affected by poverty and low educational attainment. The high school completion rate for Indian people between the ages of 20 and 24 is dismally low. American Indians have a drop-out rate that is 12.5 percent higher than the rest of the National. For the Western Shoshone, the money contained in the settlement funds could lead to drastic lifestyle improvements.

After 24 years the judgment funds still remain in the United States

Treasury. The Western Shoshone have not received a single penny of this money which is rightfully theirs. In those twenty-four years, the original trust fund has grown to well over \$121 million dollars. It is the past time that this money should be delivered into the hands of its owners. The Western Shoshone Steering Committee has officially requested that Congress enact legislation to affect this distribution. It has become increasingly apparent in recent years that the vast majority of those who qualify to receive these funds support an immediate distribution of their money.

This Act will provide payments to eligible Western Shoshone tribal members and ensure that future generations of Western Shoshone will be able to enjoy the benefit of the distribution in perpetuity. Through the establishment of a tribally controlled grant trust fund, individual members of the Western Shoshone will be able to apply for money for education and other needs within limits set by a self-appointed committee of tribal members. I will continue my ongoing work with the members of the Western Shoshone and the Department of Interior to help resolve any current land issues.

It is clear that the Western Shoshone want the funds from their claim distributed without further delay. They have already voted twice to firmly and decisively voice their interests. Members of the Western Shoshone gathered in Fallon and Elko, NV in May of 1998. They cast a vote overwhelmingly in favor of distributing the funds. 1,230 supported the distribution in the statewide vote; only 53 were opposed. Again on June 2002 they cast a vote overwhelmingly in support of the distribution of the judgment funds at a rate of 100 percent per capita. 1,647 Western Shoshone voted in favor of the distribution of the funds; only 156 opposed. I rise today in support and recognition of their decision. The final distribution of this fund has lingered for more than twenty years. During the 107th Congress, the Indian Affairs Committee approved and the full Senate unanimously passed this bill. It is clear that the best interests of the Tribe will not be served by prolonging their wait. Twenty-four years has been more than long enough. I ask unanimous consent that the full 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. 618

*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 "Western Shoshone Claims Distribution Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **COMMITTEE.**—The term "Committee" means the administrative committee established under section 4(c)(1).

(2) **WESTERN SHOSHONE JOINT JUDGMENT FUNDS.**—The term "Western Shoshone joint judgment funds" means—

(A) the funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326-A-1 and 326-A-3 before the United States Court of Claims; and

(B) all interest earned on those funds.

(3) WESTERN SHOSHONE JUDGMENT FUNDS.—The term “Western Shoshone judgment funds” means—

(A) the funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326-K before the Indian Claims Commission; and

(B) all interest earned on those funds.

(4) JUDGMENT ROLL.—The term “judgment roll” means the Western Shoshone judgment roll established by the Secretary under section 3(b)(1).

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) TRUST FUND.—The term “Trust Fund” means the Western Shoshone Educational Trust Fund established under section 4(b)(1).

(7) WESTERN SHOSHONE MEMBER.—The term “Western Shoshone member” means an individual who—

(A)(i) appears on the judgment roll; or

(ii) is the lineal descendant of an individual appearing on the roll; and

(B)(i) satisfies all eligibility criteria established by the Committee under section 4(c)(4)(D)(iii);

(ii) meets any application requirements established by the Committee; and

(iii) agrees to use funds distributed in accordance with section 4(b)(2)(B) for educational purposes approved by the Committee.

### SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT FUNDS.

(a) IN GENERAL.—The Western Shoshone judgment funds shall be distributed in accordance with this section.

(b) JUDGMENT ROLL.—

(1) IN GENERAL.—The Secretary shall establish a Western Shoshone judgment roll consisting of all individuals who—

(A) have at least ¼ degree of Western Shoshone blood;

(B) are citizens of the United States; and

(C) are living on the date of enactment of this Act.

(2) INELIGIBLE INDIVIDUALS.—Any individual that is certified by the Secretary to be eligible to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be listed on the judgment roll.

(3) REGULATIONS REGARDING JUDGMENT ROLL.—The Secretary shall—

(A) publish in the Federal Register all regulations governing the establishment of the judgment roll; and

(B) use any documents acceptable to the Secretary in establishing proof of eligibility of an individual to—

(i) be listed on the judgment roll; and

(ii) receive a per capita payment under this Act.

(4) FINALITY OF DETERMINATION.—The determination of the Secretary on an application of an individual to be listed on the judgment roll shall be final.

(c) DISTRIBUTION.—

(1) IN GENERAL.—On establishment of the judgment roll, the Secretary shall make a per capita distribution of 100 percent of the Western Shoshone judgment funds, in shares as equal as practicable, to each person listed on the judgment roll.

(2) REQUIREMENTS FOR DISTRIBUTION PAYMENTS.—

(A) LIVING COMPETENT INDIVIDUALS.—The per capita share of a living, competent indi-

vidual who is 19 years or older on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid directly to the individual.

(B) LIVING, LEGALLY INCOMPETENT INDIVIDUALS.—The per capita share of a living, legally incompetent individual shall be administered in accordance with regulations promulgated and procedures established by the Secretary under section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)).

(C) DECEASED INDIVIDUALS.—The per capita share of an individual who is deceased as of the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid to the heirs and legatees of the individual in accordance with regulations promulgated by the Secretary.

(D) INDIVIDUALS UNDER THE AGE OF 19.—The per capita share of an individual who is not yet 19 years of age on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be—

(i) held by the Secretary in a supervised individual Indian money account; and

(ii) distributed to the individual—

(I) after the individual has reached the age of 18 years; and

(II) in 4 equal payments (including interest earned on the per capita share), to be made—

(aa) with respect to the first payment, on the eighteenth birthday of the individual (or, if the individual is already 18 years of age, as soon as practicable after the date of establishment of the Indian money account of the individual); and

(bb) with respect to the 3 remaining payments, not later than 90 days after each of the 3 subsequent birthdays of the individual.

(3) APPLICABLE LAW.—Notwithstanding section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), a per capita share (or the availability of that share) paid under this section shall not—

(A) be subject to Federal or State income taxation;

(B) be considered to be income or resources for any purpose; or

(C) be used as a basis for denying or reducing financial assistance or any other benefit to which a household or Western Shoshone member would otherwise be entitled to receive under—

(i) the Social Security Act (42 U.S.C. 301 et seq.); or

(ii) any other Federal or federally-assisted program.

(4) UNPAID FUNDS.—The Secretary shall add to the Western Shoshone joint judgment funds held in the Trust Fund under section 4(b)(1)—

(A) all per capita shares (including interest earned on those shares) of living competent adults listed on the judgment roll that remain unpaid as of the date that is—

(i) 6 years after the date of distribution of the Western Shoshone judgment funds under paragraph (1); or

(ii) in the case of an individual described in paragraph (2)(D), 6 years after the date on which the individual reaches 18 years of age; and

(B) any other residual principal and interest funds remaining after the distribution under paragraph (1) is complete.

### SEC. 4. DISTRIBUTION OF WESTERN SHOSHONE JOINT JUDGMENT FUNDS.

(a) IN GENERAL.—The Western Shoshone joint judgment funds shall be distributed in accordance with this section.

(b) WESTERN SHOSHONE EDUCATIONAL TRUST FUND.—

(1) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States, for the benefit of Western Shoshone members, a trust fund to be

known as the “Western Shoshone Educational Trust Fund”, consisting of—

(A) the Western Shoshone joint judgment funds; and

(B) the funds added under in section 3(b)(4).

(2) AMOUNTS IN TRUST FUND.—With respect to amounts in the Trust fund—

(A) the principal amount—

(i) shall not be expended or disbursed; and

(ii) shall be invested in accordance with section 1 of the Act of June 24, 1938 (25 U.S.C. 162a); and

(B) all interest income earned on the principal amount after the date of establishment of the Trust fund—

(i) shall be distributed by the Committee—

(I) to Western Shoshone members in accordance with this Act, to be used as educational grants or for other forms of educational assistance determined appropriate by the Committee; and

(II) to pay the reasonable and necessary expenses of the Committee (as defined in the written rules and procedures of the Committee); but

(ii) shall not be distributed under this paragraph on a per capita basis.

(c) ADMINISTRATIVE COMMITTEE.—

(1) ESTABLISHMENT.—There is established an administrative committee to oversee the distribution of educational grants and assistance under subsection (b)(2).

(2) MEMBERSHIP.—The Committee shall be composed of 7 members, of which—

(A) 1 member shall represent the Western Shoshone Te-Moak Tribe and be appointed by that Tribe;

(B) 1 member shall represent the Duckwater Shoshone Tribe and be appointed by that Tribe;

(C) 1 member shall represent the Yomba Shoshone Tribe and be appointed by that Tribe;

(D) 1 member shall represent the Ely Shoshone Tribe and be appointed by that Tribe;

(E) 1 member shall represent the Western Shoshone Committee of the Duck Valley Reservation and be appointed by that Committee;

(F) 1 member shall represent the Fallon Band of Western Shoshone and be appointed by that Band; and

(G) 1 member shall represent the general public and be appointed by the Secretary.

(3) TERM.—

(A) IN GENERAL.—Each member of the Committee shall serve a term of 4 years.

(B) VACANCIES.—If a vacancy remains unfilled in the membership of the Committee for a period of more than 60 days—

(i) the Committee shall appoint a temporary replacement from among qualified members of the organization for which the replacement is being made; and

(ii) that member shall serve until such time as the organization (or, in the case of a member described in paragraph (2)(G), the Secretary) designates a permanent replacement.

(4) DUTIES.—The Committee shall—

(A) distribute interest funds from the Trust Fund under subsection (b)(2)(B)(i);

(B) for each fiscal year, compile a list of names of all individuals approved to receive those funds;

(C) ensure that those funds are used in a manner consistent with this Act;

(D) develop written rules and procedures, subject to the approval of the Secretary, that cover such matters as—

(i) operating procedures;

(ii) rules of conduct;

(iii) eligibility criteria for receipt of funds under subsection (b)(2)(B)(i);

(iv) application selection procedures;

(v) procedures for appeals to decisions of the Committee;

(vi) fund disbursement procedures; and

(vii) fund recoupment procedures;

(E) carry out financial management in accordance with paragraph (6); and

(F) in accordance with subsection (b)(2)(C)(ii), use a portion of the interest funds from the Trust Fund to pay the reasonable and necessary expenses of the Committee (including per diem rates for attendance at meetings that are equal to those paid to Federal employees in the same geographic location), except that not more than \$100,000 of those funds may be used to develop written rules and procedures described in subparagraph (D).

(5) JURISDICTION OF TRIBAL COURTS.—At the discretion of the Committee and with the approval of the appropriate tribal government, a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations (or a successor regulation), shall have jurisdiction to hear an appeal of a decision of the Committee.

(6) FINANCIAL MANAGEMENT.—

(A) FINANCIAL STATEMENT.—The Committee shall employ an independent certified public accountant to prepare a financial statement for each fiscal year that discloses—

(i) the operating expenses of the Committee for the fiscal year; and

(ii) the total amount of funds disbursed under subsection (b)(2)(B)(i) for the fiscal year.

(B) DISTRIBUTION OF INFORMATION.—For each fiscal year, the Committee shall provide to the Secretary, to each organization represented on the Committee, and, on the request of a Western Shoshone member, to the Western Shoshone member, a copy of—

(i) the financial statement prepared under subparagraph (A); and

(ii) the list of names compiled under paragraph (4)(B).

(d) CONSULTATION.—The Secretary shall consult with the Committee on the management and investment of the funds distributed under this section.

**SEC. 5. REGULATIONS.**

The Secretary may promulgate such regulations as are necessary to carry out this Act.

By Mr. EDWARDS (for himself,  
Mr. LAUTENBERG, and Mr.  
LEVIN):

S. 620. A bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pension.

Mr. EDWARDS. Mr. President, I rise today along with my colleagues Mr. LAUTENBERG and Mr. LEVIN to re-introduce the College Fire Prevention Act. This measure would provide Federal matching grants for the installation of fire sprinkler systems in college and university dormitories and fraternity and sorority houses. I believe the time is now to address the sad situation of deadly fires that occur in our children's college living facilities.

The tragic fire that occurred at Seton Hall University on Wednesday, January 19th, 2000, will not be forgotten. Three freshmen, all 18 years old, died. Fifty-four students, two South Orange firefighters and two South Orange police officers were injured. The dormitory, Boland Hall, was a six-

story, 350-room structure built in 1952 that housed approximately 600 students. Astonishingly, the fire was contained to the third floor lounge of Boland Hall. This dormitory was equipped with smoke alarms but no sprinkler system.

Unfortunately, the Boland Hall fire was not the first of its kind. And it reminded many people in North Carolina of their own tragic experience with dorm fires. In 1996, on Mother's Day and Graduation Day, a fire in the Phi Gamma Delta fraternity house at the University of North Carolina at Chapel Hill killed five college juniors and injured three others. The three-story fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

Sadly, dorm fires are not rare. On December 9, 1997, a student died in a dormitory fire at Greenville College in Greenville, IL. The dormitory, Kinney Hall, was built in the 1960s and had no fire sprinkler system. On January 10, 1997, a student died at the University of Tennessee at Martin. The dormitory, Ellington Hall, had no fire sprinkler system. On January 3, 1997, a student died in a dormitory fire at Central Missouri State University in Warrensburg, MO. On October 21, 1994, five students died in a fraternity house fire in Bloomsburg, PA. The list goes on and on. In a typical year between 1980 and 1998, the National Fire Protection Association estimates there were an average of 1,800 fires at dormitories, fraternities, and sororities, involving one death, 70 injuries, and \$8 million in property damage.

So now we must ask, what can be done? What can we do to curtail these tragic fires from taking the lives of our children, our young adults? We should focus our attention on the lack of fire sprinklers in college dormitories and fraternity and sorority houses. Sprinklers save lives.

Despite the clear benefits of sprinklers, many college dorms do not have them. New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings. In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent of them had fire sprinklers present.

At my State's flagship university at Chapel Hill, for example, only 14 of the 33 residence halls have sprinklers. Only 3 of 9 dorms at North Carolina Central University are equipped with the life-saving devices, and there are sprinklers in 4 of the 18 dorms at the University of North Carolina at Greensboro.

The legislation I introduce today authorizes the Secretary of Education, in consultation with the United States Fire Administration, to award grants to States, private or public colleges or

universities, fraternities, or sororities to assist them in providing fire sprinkler systems for their student housing and dormitories. These entities would be required to produce matching funds equal to one-half of the cost of the project. This legislation authorizes \$80 million for fiscal years 2004 through 2008.

In North Carolina, we decided to initiate a drive to install sprinklers in our public college and university dorms. The overall cost is estimated at \$57.5 million. Given how much it is going to cost North Carolina's public colleges and universities to install sprinklers, I think it's clear that the \$100 million that this measure authorizes is just a drop in the bucket. But my hope is that by providing this small incentive we can encourage more colleges to institute a comprehensive review of their dorm's fire safety and to install sprinklers. All they need is a helping hand. With this modest measure of prevention, we can help prevent the needless and tragic loss of young lives.

Parents should not have to worry about their children living in fire traps. When we send our children away to college, we are sending them to a home away from home where hundreds of other students eat, sleep, burn candles, use electric appliances and smoke. We must not compromise on their safety. As the Fire Chief from Chapel Hill wrote me: "Every year, parents send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing . . . The only complete answer to making student-housing safe is to install fire sprinkler systems." In short, the best way to ensure the protection of our college students is to install fire sprinklers in our college dormitories and fraternity and sorority houses. My proposal has been endorsed by the National Fire Protection Association. I ask all of my colleagues to join me in supporting this important legislation. Thank you.

I ask unanimous consent that the text of the legislation and the letters of support be printed in the RECORD.

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

MARCH 4, 2003.

Hon. JOHN EDWARDS,  
U.S. Senate,  
Washington, DC.

SENATOR EDWARDS: On behalf of the National Fire Prevention Association (NFPA) and our 70,000 members, I want to thank you for introducing the College Fire Prevention Act. We are pleased to support your legislative efforts to provide federal assistance for the installation of fire sprinkler systems in college and university housing and dormitories.

Each year, an estimated 1,800 fires occur in dormitories and fraternity and sorority houses. These fires are responsible for an average of one death, seventy injuries and over \$8 million in property damage. Of these fires, only 35% had fire sprinkler systems present.

As you know, in your home state of North Carolina, a tragic fire on Mother's Day in 1996 killed five students in a fraternity house.

Our statistics show that properly installed and maintained fire sprinkler systems have a proven track records of protecting lives and property in all types of occupancies. In particular, the retrofitting of fire sprinkler systems in college and university housing will greatly improve the safety of these public and private institutions.

Thank you for your leadership on this crucial issue. NFPA is ready to assist in any way to see this legislation passed.

Sincerely,

JOHN C. BIECHMAN,  
*Vice-President, Government Affairs.*

*Chapel Hill Fire Department, Chapel Hill, NC,  
March 12, 2003.*

Senator JOHN EDWARDS,  
*Dirksen Senate Office Building,  
Washington, DC.*

DEAR SENATOR EDWARDS: One of the most under addressed fire safety problems in America today is university and college student housing. Every year, parents send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing. We in Chapel Hill experienced a worst-case scenario, when in 1996 a fire in a fraternity house on Mother's Day/Graduation Day claimed five young lives and injured three more. We recognized the only complete answer to making student-housing safe is to install fire sprinkler systems.

I had the privilege of reading a draft copy of your proposed legislation amending the Higher Education Act of 1965 to create a matching grants program supporting the lifesaving step of installing fire sprinkler systems in student housing. I strongly urge you to introduce this legislation and I pledge to assist you in promoting this important Bill. Your proposed legislation is the only real solution to the fire threat in student housing. Higher education cannot prepare our young people to contribute to society if they do not survive the experience.

After thirteen years of being responsible for fire protection at the University of North Carolina—Chapel Hill, I am convinced that where students reside, alarms systems are not enough, clear exit ways are not enough, quick fire department response is not enough and educational programs are not enough. The only way you can insure fire safety for college student housing is to place a fire sprinkler system over them. Thank you for recognizing the magnitude of this threat and for proposing a solution to it.

Tell me how we can help.

Sincerely,

DANIEL JONES,  
*Fire Chief.*

S. 620

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

**SECTION 1. COLLEGE FIRE PREVENTION ASSISTANCE.**

Title VII of the Higher Education Act of 1965 (20 U.S.C. 1133 et seq.) is amended by adding at the end the following:

**"PART E—COLLEGE FIRE PREVENTION ASSISTANCE**

**"SEC. 771. SHORT TITLE.**

"This part may be cited as the 'College Fire Prevention Act'.

**"SEC 772. FINDINGS.**

"Congress makes the following findings:

"(1) On Wednesday, January 19, 2000, a fire occurred at a Seton Hall University dor-

mitory. Three male freshmen, all 18 years of age, died. Fifty-four students, 2 South Orange firefighters, and 2 South Orange police officers were injured. The dormitory was a 6-story, 350-room structure built in 1952, that housed approximately 600 students. It was equipped with smoke alarms but no fire sprinkler system.

"(2) On Mother's Day 1996 in Chapel Hill, North Carolina, a fire in the Phi Gamma Delta Fraternity House killed 5 college juniors and injured 3. The 3-story plus basement fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

"(3) It is estimated that between 1980 and 1998, an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 70 injuries, and \$8,000,000 in property damage were reported to public fire departments.

"(4) Within dormitories, fraternities, and sororities the number 1 cause of fires is arson or suspected arson. The second leading cause of college building fires is cooking, while the third leading cause is smoking.

"(5) New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings.

"(6) In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent had fire sprinklers present.

**"SEC. 773. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part \$80,000,000 for each of the fiscal years 2004 through 2008.

**"SEC. 774. GRANTS AUTHORIZED.**

"(a) PROGRAM AUTHORITY.—The Secretary, in consultation with the United States Fire Administration, is authorized to award grants to States, private or public colleges or universities, fraternities, and sororities to assist them in providing fire sprinkler systems, or other fire suppression or prevention technologies, for their student housing and dormitories.

"(b) MATCHING FUNDS REQUIREMENT.—The Secretary may not award a grant under this section unless the entity receiving the grant provides, from State, local, or private sources, matching funds in an amount equal to not less than one-half of the cost of the activities for which assistance is sought.

**"SEC. 775. PROGRAM REQUIREMENTS.**

"(a) APPLICATION.—Each entity desiring a grant under this part shall submit to the Secretary an application at such time and in such manner as the Secretary may require.

"(b) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to applicants that demonstrate in the application submitted under subsection (a) the inability to fund the sprinkler system, or other fire suppression or prevention technology, from sources other than funds provided under this part.

"(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—An entity that receives a grant under this part shall not use more than 4 percent of the grant funds for administrative expenses.

**"SEC. 776. DATA AND REPORT.**

"The Comptroller General shall—

"(1) gather data on the number of college and university housing facilities and dormitories that have and do not have fire sprinkler systems and other fire suppression or prevention technologies; and

"(2) report such data to Congress.

**"SEC. 777. ADMISSIBILITY.**

"Notwithstanding any other provision of law, any application for assistance under

this part, any negative determination on the part of the Secretary with respect to such application, or any statement of reasons for the determination, shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity."

By Mr. BINGAMAN (for himself,  
Mr. JEFFORDS, Mrs. MURRAY,  
Mr. LEAHY, and Ms. CANTWELL):

S. 621. A bill to amend title XXI of the Social Security Act to allow qualifying States to use allotments under the State children's health insurance program for expenditures under the Medicaid program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators JEFFORDS, MURRAY, LEAHY, and CANTWELL entitled the "Children's Health Equity Act of 2003." This bill addresses an inequity that was created during the establishment of the State Children's Health Insurance Program, CHIP, that unfairly penalized certain States that had done the right thing and had expanded Medicaid coverage to children prior to the enactment of the bill.

While the Congress recognized this fact for some States and "grandfathered" in their expansions so those States could use the new CHIP funding for the children of their respective States, the legislation failed to do so for others, including New Mexico, Vermont, and Washington, among others. This had the effect of penalizing a certain group of States for having done the right thing.

The "Children's Health Equity Act of 2003" addresses this inequity by allowing those States, which had expanded coverage to children up to 185 percent of poverty by April 15, 1997, before the enactment of CHIP, to be allowed to also utilize their CHIP allotments for coverage of those children covered by Medicaid above 133 percent of poverty—putting them on a more level field with all other States in the country.

As you know, in 1997 Congress and President Clinton agreed to establish the State Children's Health Insurance Program, CHIP, and provide \$48 billion over ten years as an incentive to States to provide health care coverage to uninsured, low-income children up to 200 percent of poverty or beyond.

During the negotiations of the Balanced Budget Act, BBA, of 1997, Congress and the Administration properly recognized that certain States were already undertaking Medicaid or separate State-run expansions of coverage to children up to 185 percent of poverty or above and that they would be allowed to use the new CHIP funding for those purposes. The final bill specifically allowed the States of Florida, New York, and Pennsylvania to convert their separate State-run programs into CHIP expansions and States that had expanded coverage to children through Medicaid after March 31, 1997, were also allowed to use CHIP funding for their expansions.

Unfortunately, New Mexico and other States that had enacted similar expansions prior to March 1997 were denied the use of CHIP funding for their expansions. This created an inequity among the States where some were allowed to have their prior programs "grandfathered" into CHIP and others were denied. Therefore, our bill addresses this inequity.

New Mexico has a strong record of attempting to expand coverage to children through the Medicaid program. In 1995, prior to the enactment of CHIP, New Mexico expanded coverage to for all children through age 18 through the Medicaid program up to 185 percent of poverty. After CHIP was passed, New Mexico further expanded its coverage up to 235 percent of poverty—above the level of the vast majority of states across the country.

Due to the inequity caused by CHIP, New Mexico has been allocated \$266 million from CHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over \$26 million as of the end of last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its federal CHIP allocations.

New Mexico is unable to spend its funding because it had enacted its expansion of coverage to children up to 185 percent of poverty prior to the enactment of CHIP and our State was not "grandfathered" into CHIP as other comparable states were.

The consequences for the children of New Mexico are enormous. According to the Census Bureau, New Mexico has an estimated 114,000 uninsured children. In other words, almost 21 percent of all the children in New Mexico are uninsured, despite the fact the State has expanded coverage up to 235 percent of poverty. This is the second highest rate of uninsured children in the country.

This is a result of the fact that an estimated 80 percent of the uninsured children in New Mexico are below 200 percent of poverty. These children are, consequently, often eligible for Medicaid but currently unenrolled. With the exception of those few children between 185 and 200 percent of poverty who are eligible for CHIP funding, all of the remaining uninsured children below 185 percent of poverty in New Mexico are denied CHIP funding despite their need.

Exacerbating this inequity is the fact that many States are accessing their CHIP allotments to cover kids at poverty levels far below New Mexico's current or past eligibility levels. The children in those States are certainly no more worthy of health insurance coverage than the children of New Mexico.

As the health policy statement by the National Governors' Association reads, "The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S-CHIP, which provides enhanced funding to meet these goals. To this end, the

Governors support providing additional funding flexibility to states that had already significantly expanded coverage to the majority of uninsured children in their states."

Consequently, the bill I am introducing today corrects this inequity. The bill reflects a carefully-crafted response to the unintended consequences of CHIP and brings much needed assistance to children currently uninsured in my State and other similarly situated States, including Washington and Vermont.

Rather than simply changing the effective date included in the BBA that helped a smaller subset of States, this initiative includes strong maintenance of effort language as well as incentives for our State to conduct outreach and enrollment efforts and program simplification to find and enroll uninsured kids because we feel strongly that they must receive the health coverage for which they are eligible.

The bill does not take money from other States' CHIP allotments. It simply allows our States to spend our States' specific CHIP allotments from the Federal Government on our uninsured children—just as other states across the country are doing.

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. 621

*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 Health Equity Act of 2003".

**SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE SCHIP FUNDS FOR MEDICAID EXPENDITURES.**

Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

"(g) **AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.**—

"(1) **STATE OPTION.**—

"(A) **IN GENERAL.**—Notwithstanding any other provision of law, with respect to fiscal years in which allotments for a fiscal year under section 2104 (beginning with fiscal year 1998) are available under subsections (e) and (g) of that section, a qualifying State (as defined in paragraph (2)) may elect to use such allotments (instead of for expenditures under this title) for payments for such fiscal year under title XIX in accordance with subparagraph (B).

"(B) **PAYMENTS TO STATES.**—

"(i) **IN GENERAL.**—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the total amount of funds described with respect to the State in subparagraph (A), the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under title XIX for expenditures of the State for the fiscal year described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)) of such expenditures.

"(ii) **EXPENDITURES DESCRIBED.**—For purposes of clause (i), the expenditures de-

scribed in this clause are expenditures for such fiscal years for providing medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 133 percent of the poverty line.

"(iii) **NO IMPACT ON DETERMINATION OF BUDGET NEUTRALITY FOR WAIVERS.**—In the case of a qualifying State that uses amounts paid under this subsection for expenditures described in clause (ii) that are incurred under a waiver approved for the State, any budget neutrality determinations with respect to such waiver shall be determined without regard to such amounts paid.

"(2) **QUALIFYING STATE.**—In this subsection, the term 'qualifying State' means a State that—

"(A) as of April 15, 1997, has an income eligibility standard with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or under a waiver under section 1115 implemented on January 1, 1994, that is up to 185 percent of the poverty line or above; and

"(B) satisfies the requirements described in paragraph (3).

"(3) **REQUIREMENTS.**—The requirements described in this paragraph are the following:

"(A) **SCHIP INCOME ELIGIBILITY.**—The State has a State child health plan that (whether implemented under title XIX or this title)—

"(i) as of January 1, 2001, has an income eligibility standard that is at least 200 percent of the poverty line or has an income eligibility standard that exceeds 200 percent of the poverty line under a waiver under section 1115 that is based on a child's lack of health insurance;

"(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

"(iii) provides benefits to all children in the State who apply for and meet eligibility standards on a statewide basis.

"(B) **NO WAITING LIST IMPOSED.**—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

"(C) **ADDITIONAL REQUIREMENTS.**—The State has implemented at least 3 of the following policies and procedures (relating to coverage of children under title XIX and this title):

"(i) **UNIFORM, SIMPLIFIED APPLICATION FORM.**—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

"(ii) **ELIMINATION OF ASSET TEST.**—The State does not apply any asset test for eligibility under section 1902(1) or this title with respect to children.

"(iii) **ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.**—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

"(iv) **SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.**—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes

under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

“(v) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(1)(2)(B) consistent with section 1902(a)(55).”.

By Mr. GRASSLEY (for himself, Mr. KENNEDY, Mr. BAUCUS, Ms. SNOWE, Mr. DASCHLE, Mr. SMITH, Mr. KERRY, Mr. THOMAS, Mr. BINGAMAN, Mr. BUNNING, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. JEFFORDS, Mr. ENZI, Mr. SARBANES, Mr. DOMENICI, Mr. JOHNSON, Mr. ENSIGN, Mrs. MURRAY, Mr. HOLLINGS, Ms. STABENOW, Mr. CORZINE, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. REID, Mr. DEWINE, Mr. REED, Ms. COLLINS, Mr. MILLER, Mr. LUGAR, Mr. LIEBERMAN, Mr. LEAHY, Mr. CHAFEE, Mr. KOHL, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MCCAIN, Mr. DORGAN, Mr. ROBERTS, Mr. DODD, Mr. DAYTON, Ms. CANTWELL, Mr. BREAUX, Mr. BIDEN, Ms. MIKULSKI, Mr. LEVIN, Ms. LANDRIEU, Mr. INOUE, Mr. HARKIN, Mr. DURBIN, Mrs. CLINTON, Mrs. BOXER, Mr. BAYH, and Mr. AKAKA):

S. 622. A bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY, Mr. President, Senator KENNEDY and I are happy to announce the introduction of the Family Opportunity Act of 2003, a bill to promote family, work, and opportunity. Every day, across the country, thousands of families struggle to obtain affordable and appropriate health care coverage for children with special health care needs, including children with conditions such as autism, mental retardation, cerebral palsy, developmental delays, or mental illness.

Low and middle income parents who have employer sponsored family health care coverage often find that their private insurance doesn't adequately cover the array of services that are critical to their child's well-being, such as mental health services, personal care services, durable medical equipment, special nutritional supplements, and respite care. Because Medicaid, our nation's health care program for low-income individuals, offers the type of comprehensive care that best meets the needs of children with disabilities, it can become a lifeline on which many parents depend.

Yet, Medicaid is a safety net program and one must be impoverished in order to be eligible. This presents a terrible

choice for many low and middle income families who have a child with special health care needs: they must choose between work or impoverishment. Or, in the worst cases, parents consider the devastating choice of relinquishing custody for an out-of-home placement so their child can obtain services they so desperately need. Truly, there is nothing more heartbreaking for a parent than to be unable to provide for a child in need.

Consider the following example: Mr. and Mrs. Jones have two daughters, Heather and Hannah. Hannah was born with cerebral palsy. The family earns \$29,000 a year and is insured through employer sponsored health insurance. Mr. Jones recently lost his job because of down-sizing. Last year, even with insurance, the family spent nearly \$9,000 on out-of-pocket medical expenses. Mr. Jones has found a new job; unfortunately, the family's insurance premium has risen to \$200 a month and does not cover essential occupational and physical therapy. The family dipped into their 401K when Hannah was born. The family's earnings minus the health care premiums, minus out of pocket expenses puts this family at an annual income of \$17,600. The federal poverty level for a family of four is \$18,400. This hard-working family is being impoverished because of their commitment to care for their disabled child.

Over the past three years, I have worked with Senator KENNEDY and Representative PETE SESSIONS to advance this important legislation on behalf of thousands of families who need our help. Each year, more than 70 Senators have signed on as co-sponsors of the legislation. I understand the many pressing challenges facing our nation's health care system, but I urge the Senate to show its support for helping these families and pass the Family Opportunity Act this year.

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. 622

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

**SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Family Opportunity Act of 2003” or the “Dylan Lee James Act”.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

Sec. 1. Short title; amendments to Social Security Act; table of contents.

Sec. 2. Opportunity for families of disabled children to purchase medicaid coverage for such children.

Sec. 3. Treatment of inpatient psychiatric hospital services for individuals under age 21 in home or community-based services waivers.

Sec. 4. Development and support of family-to-family health information centers.

Sec. 5. Restoration of medicaid eligibility for certain SSI beneficiaries.

**SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.**

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking “or” at the end of subclause (XVII);

(ii) by adding “or” at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

“(XIX) who are disabled children described in subsection (cc)(1);” and

(B) by adding at the end the following new subsection:

“(cc)(1) Individuals described in this paragraph are individuals—

“(A) who have not attained 18 years of age;

“(B) who would be considered disabled under section 1614(a)(3)(C) but for having earnings or deemed income or resources (as determined under title XVI for children) that exceed the requirements for receipt of supplemental security income benefits; and

“(C) whose family income does not exceed such income level as the State establishes and does not exceed—

“(i) 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

“(ii) such higher percent of such poverty line as a State may establish, except that—

“(I) any medical assistance provided to an individual whose family income exceeds 250 percent of such poverty line may only be provided with State funds; and

“(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.”.

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

“(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

“(i) require such parent to apply for, enroll in, and pay premiums for, such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

“(ii) if such coverage is obtained—

“(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

“(II) treat such coverage as a third party liability under subsection (a)(25).

“(B) In the case of a parent to which subparagraph (A) applies, a State, subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium

for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.”

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking “subsection (g)” and inserting “subsections (g) and (h)”;

(2) by adding at the end the following new subsection:

“(h)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

“(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

“(A) the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) does not exceed 5 percent of the family’s income; and

“(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

“(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.”

(c) CONFORMING AMENDMENTS.—Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting “1902(a)(10)(A)(ii)(XIX),” after “1902(a)(10)(A)(ii)(XVIII).”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 2005.

**SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21 IN HOME OR COMMUNITY-BASED SERVICES WAIVERS.**

(a) IN GENERAL.—Section 1915(c) (42 U.S.C. 1396n(c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting “, or would require inpatient psychiatric hospital services for individuals under age 21,” after “intermediate care facility for the mentally retarded”; and

(B) in the second sentence, by inserting “, or would require inpatient psychiatric hospital services for individuals under age 21” before the period;

(2) in paragraph (2)(B), by striking “or services in an intermediate care facility for the mentally retarded” each place it appears and inserting “services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21”;

(3) in paragraph (2)(C)—

(A) by inserting “, or who are determined to be likely to require inpatient psychiatric hospital services for individuals under age 21,” after “, or intermediate care facility for the mentally retarded”; and

(B) by striking “or services in an intermediate care facility for the mentally retarded” and inserting “services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21”; and

(4) in paragraph (7)(A)—

(A) by inserting “or would require inpatient psychiatric hospital services for individuals under age 21,” after “intermediate care facility for the mentally retarded”; and

(B) by inserting “or who would require inpatient psychiatric hospital services for individuals under age 21” before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to medical assistance provided on or after January 1, 2004.

**SEC. 4. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.**

Section 501 (42 U.S.C. 701) is amended by adding at the end the following new subsection:

“(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2)—

“(i) there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

“(I) \$3,000,000 for fiscal year 2004;

“(II) \$4,000,000 for fiscal year 2005; and

“(III) \$5,000,000 for fiscal year 2006; and

“(ii) there is authorized to be appropriated to the Secretary, \$5,000,000 for each of fiscal years 2007 and 2008.

“(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

“(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

“(ii) remain available until expended.

“(2) The family-to-family health information centers described in this paragraph are centers that—

“(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

“(B) provide information regarding the health care needs of, and resources available for, children with disabilities or special health care needs;

“(C) identify successful health delivery models for such children;

“(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies a model for collaboration between families of such children and health professionals;

“(E) provide training and guidance regarding caring for such children;

“(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

“(G) are staffed by families of children with disabilities or special health care needs who have expertise in Federal and State public and private health care systems and health professionals.

“(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) under this subsection in accordance with the following:

“(A) With respect to fiscal year 2004, such centers shall be developed in not less than 25 States.

“(B) With respect to fiscal year 2005, such centers shall be developed in not less than 40 States.

“(C) With respect to fiscal year 2006, such centers shall be developed in not less than 50 States and the District of Columbia.

“(4) The provisions of this title that are applicable to the funds made available to the

Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

“(5) For purposes of this subsection, the term ‘State’ means each of the 50 States and the District of Columbia.”

**SEC. 5. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.**

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting “(aa)” after “(II)”;

(2) by striking “) and” and inserting “and”;

(3) by striking “section or who are” and inserting “section), (bb) who are”; and

(4) by inserting before the comma at the end the following: “, or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase ‘the first day of the month following’”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the first day of the first calendar quarter that begins after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, it is an honor to join my colleague Senator GRASSLEY today in re-introducing the Family Opportunity Act of—so that once and for all, we can remove the health care barriers for children with disabilities that so often prevent families from staying together and staying employed, and that so often prevent their children from growing up to live independent lives and become fully contributing members of their communities.

More than 9 percent of children in this country have significant disabilities, many of whom do not have access to the basic health services they need to maintain their health status, let alone prevent its continuing deterioration. To obtain these health services for their children, families are being forced to become poor, stay poor, put their children in institutions or ever give up custody of their children—all so that their children can qualify for the health coverage available under Medicaid.

In a recent survey of 20 States, families of special needs children report they are turning down jobs, turning down raises, turning down overtime, and unable even to save money for the future of their children and family—all so that their child can stay eligible for Medicaid through the Social Security Income Program. The lack of adequate health care in our country today continues to force these families into poverty in order to obtain the care they need for their disabled children.

The legislation we are reintroducing will close the health care gap for the nation’s most vulnerable population, and enable families of disabled children to be equal partners in the American dream.

In the words of President George Bush in his “New Freedom Initiative,” “To many Americans with disabilities remain trapped in bureaucracies of dependence, and are denied the access

necessary for success—and we need to tear down these barriers.

The Family Opportunity Act will do just that. It will tear down the unfair barriers to needed health care that so many disabled and special needs children are denied. It will make health insurance coverage more widely available for children with significant disabilities, through opportunities to buy-in to Medicaid at an affordable rate. States will have greater flexibility to enable children with mental health disabilities to obtain the health services they need in order to live at home and in their communities. It will establish Family to Family Information Centers in each state to assist families with special needs children.

The passage of Work Incentives Improvement Act in 1999 demonstrated the nation's commitment to give adults with disabilities the right to lead independent and productive lives without giving up their health care. It is time for Congress to show the same commitment to children with disabilities.

We came very close to passing the Family Opportunity Act in the last Congress. I look forward to working members of this new Congress to enact this important legislation, and give disabled children and their families their rightful opportunity to fulfill their dreams and participate fully in the life of our nation.

By Mr. WARNER (for himself and Ms. COLLINS):

S. 623. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

Mr. WARNER. Mr. President, today I am introducing legislation to provide some relief for our Nation's retired Federal employees from the severe increases in Federal Employee Health Benefit, FEHB, program premiums. This measure extends premium conversion to federal and military retirees, allowing them to pay their health insurance premiums with pre-tax dollars.

Over 9 million Federal employees, retirees and their families are covered under FEHBP. In 2003 premiums are expected to rise an average of 11 percent, the third year in a row the average increase has exceeded 10 percent.

The increasing cost of health care is a critical issue, especially to retirees living on a fixed income. The 2003 Cost of Living Adjustment, COLA, for Federal civil service annuitants is only 1.4 percent, the lowest since a 1.3 percent increase in 1999. The modest COLA is completely diminished by increased health care costs.

In the fall of 2000 premium conversion became available to current federal employees who participate in the Federal Employees Health Benefits Program. It is a benefit already available to many private sector employees.

While premium conversion does not directly affect the amount of the FEHBP premium, it helps to offset some of the increase by reducing an individual's federal tax liability.

Extending this benefit to federal retirees requires a change in the tax law, specifically Section 125 of the Internal Revenue Code. This legislation makes the necessary change in the tax code.

Under the legislation, the benefit is concurrently afforded to our Nation's military retirees as well to assist with increasing health care costs.

A number of organizations representing Federal and military retirees are strongly behind this initiative, including the National Association of Retired Federal Employees, the Military Coalition, the Fleet Reserve Association, and the Association of the U.S. Army.

I encourage my colleagues to support this critical legislation and show their support for our Nation's dedicated Federal civilian and military retirees. 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. 623

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

**SECTION 1. PRETAX PAYMENT OF HEALTH INSURANCE PREMIUMS BY FEDERAL CIVILIAN AND MILITARY RETIREES.**

(a) IN GENERAL.—Subsection (g) of section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by adding at the end the following new paragraph:

“(5) HEALTH INSURANCE PREMIUMS OF FEDERAL CIVILIAN AND MILITARY RETIREES.—

“(A) FEHBP PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an annuitant, as defined in paragraph (3) of section 8901, title 5, United States Code, with respect to a choice between the annuity or compensation referred to in such paragraph and benefits under the health benefits program established by chapter 89 of such title 5.

“(B) TRICARE PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an individual receiving retired or retainer pay by reason of being a member or former member of the uniformed services of the United States with respect to a choice between such pay and benefits under the health benefits programs established by chapter 55 of title 10, United States Code.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2. DEDUCTION FOR TRICARE SUPPLEMENTAL PREMIUMS.**

(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 223 as section 224 and by inserting after section 222 the following new section:

“SEC. 223. TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.

“(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amounts paid during the taxable year by the taxpayer for insurance purchased as supplemental coverage to the

health benefits programs established by chapter 55 of title 10, United States Code, for the taxpayer and the taxpayer's spouse and dependents.

“(b) COORDINATION WITH MEDICAL DEDUCTION.—Any amount allowed as a deduction under subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).”

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (18) the following new paragraph:

“(19) TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.—The deduction allowed by section 223.”

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

“Sec. 223. TRICARE supplemental premiums or enrollment fees.

“Sec. 224. Cross reference.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 3. IMPLEMENTATION.**

(a) FEHBP PREMIUM CONVERSION OPTION FOR FEDERAL CIVILIAN RETIREES.—The Director of the Office of Personnel Management shall take such actions as the Director considers necessary so that the option made possible by section 125(g)(5)(A) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period, afforded under section 8905(g)(1) of title 5, United States Code, which begins not less than 90 days after the date of the enactment of this Act.

(b) TRICARE PREMIUM CONVERSION OPTION FOR MILITARY RETIREES.—The Secretary of Defense, after consulting with the other administering Secretaries (as specified in section 1073 of title 10, United States Code), shall take such actions as the Secretary considers necessary so that the option made possible by section 125(g)(5)(B) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period afforded under health benefits programs established under chapter 55 of such title, which begins not less than 90 days after the date of the enactment of this Act.

By Mr. BAUCUS (for himself and Mr. LEVIN):

S. 624. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the U.S.-Russia Trade Act of 2003.

This legislation would grant Permanent Normal Trade Relations to Russia. However—and I want to be very clear about this point—this legislation would also ensure that Congress retains proper oversight of negotiations to bring Russia into the World Trade Organization.

Congress typically grants PNTR to a Jackson-Vanik country only when that country is about to join the WTO. This is, for example, exactly what Congress did when China joined the WTO.

The Administration and some of my colleagues have suggested that Congress should grant PNTR to Russia

prior to their joining the WTO. If we are going to do down this path, we must ensure that there is adequate Congressional oversight.

This legislation would ensure Congressional involvement in the following way: after negotiations are completed, Congress would be guaranteed a vote on a resolution to disapprove of Russia's joining the WTO, if such a resolution is introduced.

Congress has a key role to play in negotiating an agreement on Russia's entering the WTO. China's WTO accession demonstrates this. The Administration was able to obtain a better deal with China because of Congressional involvement.

And there are some real concerns with Russia. The Russian government has announced that it plans to add additional restrictions on imports of U.S. agricultural products, including poultry, pork, and beef. That's unacceptable, and it is behavior that should not be rewarded.

I look forward to working with my colleagues to ensure that Congress continues to have an important role in Russia's accession to the WTO.

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. 624

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

#### SECTION 1. FINDINGS.

The Congress finds that—

(1) the Russian Federation has adopted constitutional protections and statutory and administrative procedures that accord its citizens the right and opportunity to emigrate, free of anything more than a nominal tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of such citizens to emigrate to the country of their choice or to return to the Russian Federation;

(2) the Russian Federation has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1994;

(3) the Russian Federation has taken important steps toward the creation of democratic institutions and a free-market economy and, as a participating state of the Organization for Security and Cooperation in Europe (in this Act referred to as the "OSCE"), is committed to developing a system of governance in accordance with the principles regarding human rights and humanitarian affairs that are set forth in the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act") and successive documents;

(4) the Russian Federation is committed to addressing issues relating to its national and religious minorities as a participating state of the OSCE, to adopting measures to ensure that persons belonging to national minorities have full equality both individually and communally, and to respecting the independence of minority religious communities, although problems still exist regarding the registration of religious groups, visa, and im-

migration requirements, and other laws, regulations, and practices that interfere with the activities or internal affairs of minority religious communities;

(5) the Russian Federation has enacted legislation providing protection against discrimination or incitement to violence against persons or groups based on national, racial, ethnic, or religious discrimination, including anti-Semitism;

(6) the Russian Federation has committed itself, including through exchanges of letters, to ensuring freedom of religion, equal treatment of all religious groups, and combating racial, ethnic, and religious intolerance and hatred, including anti-Semitism;

(7) the Russian Federation has engaged in efforts to combat ethnic and religious intolerance by cooperating with various United States nongovernmental organizations;

(8) the Russian Federation is continuing the restitution of religious properties, including religious and communal properties confiscated from national and religious minorities during the Soviet era, facilitating the reemergence of these minority groups in the national life of the Russian Federation, and has committed itself, including through exchanges of letters, to continue the restitution of such properties;

(9) the Russian Federation has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force on June 17, 1992;

(10) the Russian Federation is making progress toward accession to the World Trade Organization, recognizing that many central issues remain to be resolved, including removal of unjustified restrictions on agricultural products of the United States, commitments relating to tariff reductions for goods, trade in services, protection of intellectual property rights, reform of the industrial energy sector, elimination of export incentives for industrial goods, reform of customs procedures and technical, sanitary, and phytosanitary measures, and inclusion of trade remedy provisions;

(11) the Russian Federation has enacted some protections reflecting internationally recognized labor rights, but serious gaps remain both in the country's legal regime and its enforcement record;

(12) the Russian Federation has provided constitutional guarantees of freedom of the press, although infringements of this freedom continue to occur; and

(13) the Russian Federation has demonstrated a strong desire to build a friendly and cooperative relationship with the United States.

#### SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE RUSSIAN FEDERATION.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title shall no longer apply to the Russian Federation; and

(2) after making a determination under paragraph (1) with respect to the Russian Federation, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of the Russian Federation, chapter 1 of title IV of the Trade Act of 1974 shall cease to apply to that country.

#### SEC. 3. POLICY OF THE UNITED STATES.

It is the policy of the United States to remain fully committed to a multifaceted en-

agement with the Russian Federation, including by—

(1) urging the Russian Federation to ensure that its national, regional, and local laws, regulations, practices, and policies fully, and in conformity with the standards of the OSCE—

(A) provide for the free emigration of its citizens;

(B) safeguard religious liberty throughout the Russian Federation, including by ensuring that the registration of religious groups, visa and immigration requirements, and other laws, regulations, and practices are not used to interfere with the activities or internal affairs of minority religious communities;

(C) enforce and enhance existing Russian laws at the national and local levels to combat ethnic, religious, and racial discrimination and related violence;

(D) expand the restitution of religious and communal properties, including by establishing a legal framework for the timely completion of such restitution; and

(E) respect fully freedom of the press;

(2) working with the Russian Federation, including through the Secretary of Labor and other appropriate executive branch officials, to address the issues described in section 1(11); and

(3) continuing rigorous monitoring by the United States of human rights issues in the Russian Federation, including the issues described in paragraphs (1) and (2), providing assistance to nongovernmental organizations and human rights groups involved in human rights activities in the Russian Federation, and promoting annual discussions and ongoing dialog with the Russian Federation regarding those issues, including the participation of United States and Russian nongovernmental organizations in such discussions.

#### SEC. 4. REPORTING REQUIREMENT.

The reports required by sections 102(b) and 203 of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b) and 6433) shall include an assessment of the status of the issues described in subparagraphs (A) through (D) of section 3(1).

#### SEC. 5. CONTINUED ENJOYMENT OF RIGHTS UNDER THE JUNE 17, 1992, BILATERAL TRADE AGREEMENT.

(a) FINDING.—The Congress finds that the trade agreement between the United States and the Russian Federation that entered into force on June 17, 1992, remains in force between the 2 countries and provides the United States with important rights, including the right to use specific safeguard rules to respond to import surges from the Russian Federation.

(b) APPLICABILITY OF SAFEGUARD.—Section 421 of the Trade Act of 1974 (19 U.S.C. 2451) shall apply to the Russian Federation to the same extent as such section applies to the People's Republic of China.

#### SEC. 6. EXERCISE OF CONGRESSIONAL OVERSIGHT OVER WTO ACCESSION NEGOTIATIONS.

(a) NOTICE OF AGREEMENT ON ACCESSION TO WTO BY RUSSIAN FEDERATION.—Not later than 5 days after the date on which the United States has entered into a bilateral agreement with the Russian Federation on the terms of accession by the Russian Federation to the World Trade Organization, the President shall so notify the Congress, and the President shall transmit to the Congress, not later than 15 days after that agreement is entered into, a report that sets forth the provisions of that agreement.

(b) RESOLUTION OF DISAPPROVAL.—

(1) INTRODUCTION.—If a resolution of disapproval is introduced in the House of Representatives or the Senate during the 30-day

period (not counting any day which is excluded under section 154(b) of the Trade Act of 1974 (19 U.S.C. 2194(b)), beginning on the date on which the President first notifies the Congress under subsection (a) of the agreement referred to in that subsection, that resolution of disapproval shall be considered in accordance with this subsection.

(2) RESOLUTION OF DISAPPROVAL.—In this subsection, the term “resolution of disapproval” means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: “That the Congress does not approve the agreement between the United States and the Russian Federation on the terms of accession by the Russian Federation to the World Trade Organization, of which Congress was notified on \_\_\_\_,” with the blank space being filled with the appropriate date.

(3) PROCEDURES FOR CONSIDERING RESOLUTIONS.—

(A) INTRODUCTION AND REFERRAL.—Resolutions of disapproval—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) COMMITTEE DISCHARGE AND FLOOR CONSIDERATION.—The provisions of subsections (c) through (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(c) through (f)) (relating to committee discharge and floor consideration of certain resolutions in the House and Senate) apply to a resolution of disapproval to the same extent as such subsections apply to resolutions under such section.

(C) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

By Mr. SANTORUM (for himself and Mr. MILLER):

S. 626. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, today, I am pleased to introduce, along with my colleague Senator MILLER, the bipartisan Teacher Paperwork Reduction Act of 2003. During the 107th Congress, we were successful in legislating sweeping reforms in education with the passage of the No Child Left Behind Act. This year we hope to complete reauthorization of another important federal education initiative—the reauthorization of the Individuals with Dis-

abilities Education Act, IDEA, this year. As we consider this legislation, our greatest responsibility is to improve the quality of the education that students with special needs receive.

One of the problems fostered by the current system, which stands in direct contrast to our purpose, is the excessive paperwork burden imposed on our special education teachers. This burden takes valuable time away from classroom instruction and is a source of ongoing frustration for the special education teachers working on the frontlines. As a result, this undermines the goal of providing the best quality education possible to all children. The Teacher Paperwork Reduction Act addresses this problem and seeks to offer solutions that will benefit special education teachers and most importantly the children they instruct.

This bipartisan legislation includes four main provisions to correct the problem of burdensome paperwork. First, the Department of Education, in cooperation with state and local educational agencies, would be required to reduce the amount of paperwork by 50 percent within 18 months of enactment of the legislation and would be encouraged to make additional reductions. Second, the General Accounting Office, GAO, would conduct a study to determine how much of the paperwork burden is caused by Federal regulations compared to State and local regulations; the number of mediations that have been conducted since mediations were required to be made available under the 1997 IDEA amendments; the use of technology in reducing the paperwork burden; and GAO would make recommendations on steps that Congress, the U.S. Department of Education, and the States and local districts can take to reduce this burden within six months of the passage of this legislation.

Third, mediation would be mandatory for all legal disputes related to Individual Education Programs, IEPs, to better empower parents and schools to focus resources on a quality education for children rather than unnecessary litigation within one year of enactment of this legislation. Fourth, the Department of Education is directed to conduct research to determine best practices for successful mediation, including training practices, that can help contribute to the effort to reduce paperwork, improve student outcomes, and free up teacher resources for teaching. The Department would also provide mediation training support services to support state and local efforts. The resources to fund these requirements would come from money appropriated through Part D of IDEA.

The Council for Exceptional Children, CEO, states, “No barrier is so irksome to special educators as the paperwork that keeps them from teaching.” According to a CEC report, concerns about paperwork ranked third among special education teachers, out of a list of 10 issues. The CEC also reports that

special education teachers are leaving the profession at almost twice the rate of general educators. Statistics concerning the amount of time special education teachers spend completing paperwork are telling. 53 percent of special education teachers report that routine duties and paperwork interfere with their job to a great extent. They spend an average of five hours per week on paperwork, compared to general education teachers who spend an average of two hours per week. More than 60 percent of special education teachers spend a half to one and a half days a week completing paperwork. One of the biggest sources of paperwork, the individualized education program, IEP, averages between 8 and 16 pages long, and 83 percent of special education teachers report spending from a half to one and a half days each week in IEP-related meetings.

One special education teacher expressed her frustration with excessive paperwork to me. “I began my professional career as a lawyer, but found that I had a passion for interacting with and helping students and became a teacher. However, I decided last year that I could no longer work with special education students from my district. I came this decision reluctantly and solely on the basis of the increasing and burdensome amount of paperwork required for special education summer services. As a teacher, your job is to interact, teach, and participate in a student’s learning experience, in particular that of a student of special needs. As a result of the paperwork and fear of lawsuits by school districts, I am no longer able to interact with my students.”

There are three primary factors associated with burdensome paperwork. The first factor is federal regulations. The 1997 IDEA regulations set forth the necessary components of the IEP and require teachers to complete an array of paperwork in addition to the IEP. According to the National School Boards Association, NSBA, “These requirements result in consuming substantial hours per child and cumulatively are having a negative impact on special educators and their function.” Second, there are misconceptions at the state and local levels regarding Federal regulations that result in additional requirements imposed by the States and local school districts. The U.S. Department of Education compiled a sample IEP with all the necessary components, and it is five pages long. However, most IEPs are much longer. The third factor is litigation and the threat of litigation. In order to be prepared for due process hearings and court proceedings, school district officials often require extensive documentation so that they are able to prove that a free appropriate public education, FAPE, was provided to the special education student.

A key provision of the bill makes mediation mandatory for all legal disputes related to IEPs. There are several benefits to using mediation as an

alternative to due process hearings and court proceedings. According to the Consortium for Appropriate Dispute Resolution in Special Education, CADRE, mediation is a constructive option for children, parents, and teachers and allows families to maintain a positive relationship with teachers and service providers. Parents have the benefit of working together with educator and service providers as partners instead of as adversaries. If an agreement cannot be reached as a result of mediation, parties to the dispute would retain existing due process and legal options.

Mediation is also a much less costly, less time consuming alternative for all parties concerned. Parents do not have to pay for mediation sessions, because under the 1997 IDEA amendments, States are required to bear the cost for mediation. States and local districts save a lot of money as well. According to the Michigan Special Education Mediation Program, MSEMP, the average hearing cost to the state is \$40,000; it pays approximately \$700 per mediation session. The NSBA reports that attorney fees for school districts average between \$10,000 to \$25,000. In contrast, the Pennsylvania Bureau of Education says that it pays mediators \$250 per session. The cost effectiveness of mediation is apparent. Not only does mediation save money, it saves time as well. According to the Washington State Department of Education, a mediation session may generally be scheduled within 14 days of a parental request, whereas it may take up to a year to secure a court date.

Most importantly, mediation is a successful alternative to due process hearings. At least some form of agreement is reached in 80 percent of sessions nationwide. In Pennsylvania, 85 percent of voluntary special education mediations end in agreement in which both parties are satisfied. According to the New York State Dispute Resolution Association, mediation ending in resolution of the conflict occurs for 75 percent of referrals, and in Wisconsin, approximately 84 percent of those who chose mediation would use it again.

The Teacher Paperwork Reduction Act is meant to alleviate a serious problem that causes frustration and discouragement among dedicated special education teachers who expend energy and countless hours in order to give students with disabilities an equal opportunity to learn. It is only fair and right to find ways to reduce paperwork in order to give teachers more time to spend educating our students and changing their lives, and less time wading through stacks of paper. I would invite my colleagues to join us in cosponsoring this legislation to help teachers, schools, and parents provide a better education for all students so that no child is left behind.

By Mr. KYL (for himself, Mr. SHELBY, and Mrs. FEINSTEIN):

S. 627. A bill to prevent the use of certain payments instruments, credit

cards, and fund transfers for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KYL. 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. 627

*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 “Unlawful Internet Gambling Funding Prohibition Act”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers;

(2) the National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them;

(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry;

(4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability;

(5) gambling through the Internet, which has grown rapidly in the half-decade preceding the enactment of this Act, opens up the possibility of immediate, individual, 24-hour access in every home to the full range of wagering opportunities on sporting events or casino-like contests, such as roulette, slot machines, poker, or black-jack; and

(6) the extent to which gambling is permitted and regulated in the United States has been primarily a matter for determination by individual States and, if applicable, Indian tribes, with Federal law serving to prevent interstate or other attempts to evade or avoid such determinations.

**SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT SYSTEM INSTRUMENT, CREDIT CARD, OR FUND TRANSFER FOR UNLAWFUL INTERNET GAMBLING.**

Chapter 53 of title 31, United States Code, is amended by adding at the end the following:

“SUBCHAPTER IV—FUNDING OF ILLEGAL INTERNET GAMBLING

“**§ 5361. Definitions**

“For purposes of this subchapter, the following definitions shall apply:

“(1) BET OR WAGER.—The term ‘bet or wager’—

“(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

“(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

“(C) includes any scheme of a type described in section 3702 of title 28, United States Code;

“(D) includes any instructions or information pertaining to the establishment or movement of funds in, to, or from an account by the bettor or customer with regard to the business of betting or wagering; and

“(E) does not include—

“(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of such Act);

“(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade pursuant to the Commodity Exchange Act;

“(iii) any over-the-counter derivative instrument;

“(iv) any other transaction that—

“(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

“(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

“(v) any contract of indemnity or guarantee;

“(vi) any contract for insurance;

“(vii) any deposit or other transaction with an insured institution;

“(viii) any participation in a simulation sports game, or an educational game or contest, that—

“(I) is not dependent solely on the outcome of any single sporting event or nonparticipant’s singular individual performance in any single sporting event;

“(II) has an outcome that reflects the relative knowledge and skill of the participants, with such outcome determined predominantly by accumulated statistical results of sporting events; and

“(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants; or

“(ix) any lawful transaction with a business licensed or authorized by a State.

“(2) BUSINESS OF BETTING OR WAGERING.—The term ‘business of betting or wagering’ does not include, other than for purposes of section 5366, any creditor, credit card issuer, insured institution, or other financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service.

“(3) DESIGNATED PAYMENT SYSTEM.—The term ‘designated payment system’ means any system utilized by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, that the Secretary, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General of the United States, determines, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

“(4) INTERNET.—The term ‘Internet’ means the international computer network of interoperable packet switched data networks.

“(5) INTERACTIVE COMPUTER SERVICE.—The term ‘interactive computer service’ has the same meaning as in section 230(f) of the Communications Act of 1934.

“(6) OFFICE.—The term ‘Office’ means the Office of Electronic Funding Oversight, established under section 5362.

“(7) RESTRICTED TRANSACTION.—The term ‘restricted transaction’ means any transaction or transmittal involving any credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(9) UNLAWFUL INTERNET GAMBLING.—The term ‘unlawful Internet gambling’ means the placing, receipt, or other transmission of a bet or wager by any means which involves the use, at least in part, of the Internet, where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

“(10) OTHER TERMS.—

“(A) CREDIT; CREDITOR; CREDIT CARD; AND CARD ISSUER.—The terms ‘credit’, ‘creditor’, ‘credit card’, and ‘card issuer’ have the same meanings as in section 103 of the Truth in Lending Act.

“(B) ELECTRONIC FUND TRANSFER.—The term ‘electronic fund transfer’—

“(i) has the same meaning as in section 903 of the Electronic Fund Transfer Act, except that such term includes transfers that would otherwise be excluded under section 903(6)(E) of that Act; and

“(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

“(C) FINANCIAL INSTITUTION.—The term ‘financial institution’ has the same meaning as in section 903 of the Electronic Fund Transfer Act, except that such term does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received.

“(D) INSURED INSTITUTION.—The term ‘insured institution’ means—

“(i) an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act; and

“(ii) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

“(E) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms ‘money transmitting business’ and ‘money transmitting service’ have the same meanings as in section 5330(d) (determined without regard to any regulations issued by the Secretary thereunder).

**“§ 5362. Office of electronic funding oversight; policies and procedures to identify and prevent restricted transactions**

“(a) ESTABLISHMENT OF TREASURY OFFICE.—

“(1) IN GENERAL.—There is established within the Department of the Treasury, the Office of Electronic Funding Oversight, the purposes of which are—

“(A) to coordinate Federal efforts to prohibit restricted transactions; and

“(B) otherwise to carry out the duties of the Office, as specified in this subchapter.

“(2) DIRECTOR.—The Office shall be headed by a Director, appointed by the Secretary. The director of the Office may serve as the designee of the Secretary, at the request of the Secretary, for any purpose under this subchapter.

“(b) REGULATIONS.—Not later than 6 months after the date of enactment of this subchapter, the Office, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General of the United States, shall prescribe regulations requiring any designated payment system, and all participants therein, to establish policies and procedures reasonably designed to identify and prevent restricted transactions through the establishment of policies and procedures that—

“(1) allow the payment system and any person involved in the payment system to

identify restricted transactions by means of codes in authorization messages or by other means;

“(2) block restricted transactions identified as a result of the policies and procedures developed pursuant to paragraph (1); and

“(3) prevent the acceptance of the products or services of the payment system in connection with a restricted transaction.

“(c) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations pursuant to subsection (b), the Office shall—

“(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed to be ‘reasonably designed to identify’ and ‘reasonably designed to block’ or to ‘prevent the acceptance of the products or services’ with respect to each type of transaction, such as, should credit card transactions be so designated, identifying transactions by a code or codes in the authorization message and denying authorization of a credit card transaction in response to an authorization message;

“(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing the acceptance of the products or services of the payment system or participant in connection with, restricted transactions; and

“(3) consider exempting restricted transactions from any requirement imposed under such regulations, if the Office finds that it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

“(d) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, shall be considered to be in compliance with the regulations prescribed under subsection (b), if—

“(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant—

“(A) to identify and block restricted transactions; or

“(B) to otherwise prevent the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

“(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (b).

“(e) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that is subject to a regulation prescribed or order issued under this subchapter and blocks, or otherwise refuses to honor, a restricted transaction, or as a member of a designated payment system relies on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under this section, shall not be liable to any party for such action.

“(f) REGULATORY ENFORCEMENT.—Regulations issued by the Office under this subchapter shall be enforced by the Federal functional regulators and the Federal Trade Commission, in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

**“§ 5363. Prohibition on acceptance of any bank instrument for unlawful internet gambling**

“No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

“(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

“(2) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

“(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

“(4) the proceeds of any other form of financial transaction, as the Secretary may prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

**“§ 5364. Civil remedies**

“(a) JURISDICTION.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this subchapter or the rules or regulations issued under this subchapter by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

“(b) PROCEEDINGS.—

“(1) INSTITUTION BY FEDERAL GOVERNMENT.—

“(A) IN GENERAL.—The United States, acting through the Attorney General, or, in the case of rules or regulations issued under this subchapter, through an agency authorized to enforce such regulations in accordance with this subchapter, may institute proceedings under this section to prevent or restrain a violation or a threatened violation of this subchapter or such rules or regulations.

“(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation or threatened violation of this subchapter or the rules or regulations issued under this subchapter, in accordance with rule 65 of the Federal Rules of Civil Procedure.

“(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

“(A) IN GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of this subchapter allegedly has occurred or will occur may institute proceedings under this section to prevent or restrain the violation or threatened violation.

“(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation or threatened violation of this subchapter, in accordance with rule 65 of the Federal Rules of Civil Procedure.

“(3) INDIAN LANDS.—

“(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a violation of this subchapter or the rules or regulations issued under this subchapter that is alleged to have occurred, or may occur, on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

“(i) the United States shall have the enforcement authority provided under paragraph (1); and

“(ii) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act shall be carried out in accordance with that compact.

“(B) RULE OF CONSTRUCTION.—No provision of this subchapter shall be construed as altering, superseding, or otherwise affecting

the application of the Indian Gaming Regulatory Act.

“(C) EXPEDITED PROCEEDINGS.—In addition to any proceeding under subsection (b), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this subchapter or the rules or regulations issued under this subchapter, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), in accordance with rule 65(b) of the Federal Rules of Civil Procedure.

“(d) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

“(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

“(A) be limited to the removal of, or disabling of access to, an online site violating this subchapter, or a hypertext link to an online site violating this subchapter, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section pursuant to section 5366;

“(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

“(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

“(D) specify the interactive computer service to which it applies; and

“(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

“(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084 of title 18, United States Code, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

“(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

“(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

“(3) RULE OF CONSTRUCTION.—The provisions of paragraph (2) do not affect any potential liability of an interactive computer service or other person under any provision of title 18, United States Code, other than as specifically provided in paragraph (2).

“(e) FACTORS TO BE CONSIDERED IN CERTAIN CASES.—In considering granting relief under this section against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, the court shall consider—

“(1) the extent to which the person extending credit or transmitting funds knew or should have known that the transaction was in connection with unlawful Internet gambling;

“(2) the history of such person in extending credit or transmitting funds when such person knew or should have known that the transaction is in connection with unlawful Internet gambling;

“(3) the extent to which such person has established and is maintaining policies and procedures in compliance with rules and regulations issued under this subchapter;

“(4) the extent to which it is feasible for any specific remedy prescribed as part of such relief to be implemented by such person without substantial deviation from normal business practice; and

“(5) the costs and burdens that the specific remedy will have on such person.

“(f) NOTICE TO REGULATORS AND FINANCIAL INSTITUTIONS.—Before initiating any proceeding under subsection (b) with respect to a violation or potential violation of this subchapter or the rules or regulations issued under this subchapter by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, the Attorney General of the United States, an attorney general of a State (or other appropriate State official), or an agency authorized to initiate such proceeding under this subchapter, shall—

“(1) notify such person, and the appropriate regulatory agency (as determined in accordance with section 5362(f) for such person) of such violation or potential violation and the remedy to be sought in such proceeding; and

“(2) allow such person 30 days to implement a reasonable remedy for the violation or potential violation, consistent with the factors described in subsection (e), and in conjunction with such action as the appropriate regulatory agency may take.

#### “§ 5365. Criminal penalties

“(a) IN GENERAL.—Whoever violates this subchapter or the rules or regulations issued under this subchapter shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

“(b) PERMANENT INJUNCTION.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

#### “§ 5366. Circumventions prohibited

“Notwithstanding section 5361(2), a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service, may be liable under this subchapter if such creditor, issuer, institution, operator, business, network, or participant has actual knowledge and control of bets and wagers, and—

“(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

“(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made,

or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.”.

#### SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

(a) IN GENERAL.—In deliberations between the United States Government and any other country on money laundering, corruption, and crime issues, the United States Government should—

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act and the amendments made by this Act; and

(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering purposes.

(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.

#### SEC. 5. AMENDMENTS TO CRIMINAL GAMBLING PROVISIONS.

(a) AMENDMENT TO DEFINITION.—Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with “The term” as paragraphs (1) through (5), respectively; and

(2) in paragraph (5), as so designated—

(A) by striking “wire communication” and inserting “communication”;

(B) by inserting “satellite, microwave,” after “cable.”; and

(C) by inserting “(whether fixed or mobile)” after “connection”.

(b) INCREASE IN PENALTY FOR UNLAWFUL WIRE TRANSFERS OF WAGERING INFORMATION.—Section 1084(a) of title 18, United States Code, is amended by striking “two years” and inserting “5 years”.

By Mr. STEVENS (for himself,  
Ms. MIKULSKI, Mr. BOND, and  
Ms. MURKOWSKI):

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the *Columbia Orbiter*; ordered held at the desk.

Mr. STEVENS, Madam President, on February 1, 2003, the Space Shuttle *Columbia* was lost during re-entry into Earth's atmosphere. We all mourn that tragic loss. But although our hearts have been filled with sorrow, we have also taken comfort in the knowledge that there was so much about these heroic astronauts for us to be grateful for.

They were, indeed, remarkable people for they truly represented the best of the human spirit. As such, it is only fitting that we endeavor to remember them for their outstanding contributions.

Today, along with Senators BOND and MIKULSKI, I introduce legislation to construct a memorial to the crew of the *Columbia Orbiter* at Arlington National Cemetery.

This memorial would be located in close proximity to the memorial to the crew of the *Challenger Orbiter* at Arlington Cemetery and that the design

of the Columbia Memorial is intended to be consistent with the artistic sensibilities of the Challenger Memorial.

This legislation would authorize the Secretary of the Army, in consultation with NASA, to place the Columbia Memorial at Arlington and would make available \$500,000 from funds already appropriated in the Fiscal Year 2003 DOD Appropriations Act for the Memorial.

The bill also authorizes NASA to collect gifts and donations for the Columbia Memorial at Arlington Cemetery or for another appropriate memorial or monument. This authority to collect donations and gifts expires after 5 years.

We will never forget the wonderful legacy of the *Columbia* astronauts. They have been an inspiration to us all.

Lastly, I take this opportunity to invite any Senator to join with me in co-sponsoring this legislation to establish this memorial to these outstanding individuals.

I ask unanimous consent that the bill be held at the desk until the close of business Wednesday, March 19, so that such Senators will be shown as original cosponsors of this legislation. It is my further hope that this bill will be speedily cleared on each side of the aisle so that it may be sent to the House next week, if at all possible. I send the bill to the desk, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be held at the desk until the close of business, Wednesday, March 19.

By Mr. FEINGOLD:

S.J. Res. 9. A joint resolution requiring the President to report to Congress specific information relating to certain possible consequences of the use of United States Armed Forces against Iraq; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I introduce a Senate companion to a joint resolution already introduced in the House by Congressman SHERROD BROWN of Ohio.

This resolution is quite simple. It requires the President to report to Congress on the potential costs and consequences of military action in Iraq before ordering the United States Armed Forces to war in Iraq. This is a resolution that simply requires that this country know what it is we are getting into before, not after, war breaks out.

Of course, it is my hope, and I very much believe the President when he asserts that it is his hope, that there will be no war. But judging from the administration's statements and Iraq's behavior, with each passing day it becomes more and more likely that the United States will engage in a major military operation in Iraq. It is entirely possible that we will undertake this operation without a great deal of international support. And while I have no doubt in my mind that our admi-

nable men and women in uniform will be successful in any military engagement, I do have doubts about whether or not the American people truly understand the magnitude of the task the country is setting for itself—not only with regard to the military engagement itself, but with regard to occupation and reconstruction.

I do not believe that Americans have been told much about what the future holds beyond the most optimistic of scenarios, and frankly I do not believe that Congress has heard much about the full range of potential scenarios either.

This resolution would require that the President provide that information before ordering our men and women in uniform to war in Iraq.

The resolution asks for a full accounting of the implications for homeland security of initiating military action against Iraq. It asks for an accounting of the implications for the fight against terrorism. It asks for an accounting of the implications for regional stability in the Middle East, and for an accounting of the implications of war in Iraq for the proliferation of weapons of mass destruction.

This resolution recognizes that there may be positive and negative implications to consider. It does not pre-judge these issues. But it does acknowledge that Members of Congress, the elected representatives of the people, should be privy to the thinking of our experts and leaders in the executive branch about the effect of war in Iraq on all of these issues. It is our responsibility to weigh these questions, to weigh the consequences of starting a war.

And, while I do not doubt for a moment the skills and competence of our brave service men and women, I do know that their efforts alone are not enough to ensure a lasting victory. It is crucial to the ultimate success of U.S. policy, that the American people understand the potential risks and the potential rewards of this national undertaking. We are considering the American military occupation of a major Middle Eastern country, and we are considering this in a very dangerous time. This country must have its eyes open before we move forward.

This resolution also requires that the administration explain to Congress the steps that the United States and our allies will take to ensure that any and all weapons of mass destruction will be safeguarded from dispersal to other rogue states or international terrorist organizations. If the goal is disarmament, then defeating Saddam Hussein's forces is not going to accomplish the mission at hand. Do we know where the WMD sites are? One would assume that we would share that information with the inspectors if we had it. But if we do not, how will we ensure that WMD and the means to make them are not dispersed across Iraq's borders, or sold off to the highest bidder, in the event of invasion. Saddam Hussein's order is despicable and dangerous. But

disorder is dangerous too. Again, we need to understand the risks, and we need to understand the plan.

This resolution requires the Administration to explain the plan for stabilization and reconstruction. Earlier this week the Senate Foreign Relations Committee held a hearing on reconstruction in Iraq. We had hoped to get answers to some of the basic questions that senior officials from the State and Defense Departments were utterly unable to respond to as recently as February. But the Administration canceled the appearance of General Jay Garner, the director for the Pentagon's Office of Reconstruction and Humanitarian Assistance, who was slated to come before the committee. And so the Foreign Relations Committee of the United States Senate is left scanning the newspapers to get a sense of Administration plans, extrapolating from tidbits in the press to understand potential costs, and quizzing very capable experts—but experts not privy to Administration planning—about the universe of possibilities. This is simply unacceptable.

This resolution calls for the Administration to clearly report to Congress on the nature and extent of the international support for military action against Iraq and the impact of military action against Iraq on allied support for the broader war on terrorism. I believe that this is the single most important issue before us. I know that I disagree with some of my colleagues on the wisdom of the Administration's policy in Iraq. But I am certain that none of us disagree on the proposition that the first priority of all of us in government must be the fight against terrorism. And we all know that we cannot fight terrorism alone. But I have heard directly from foreign officials who are telling me that it will be more difficult for them to be strong supporters of the fight against terrorism if the U.S. acts in Iraq without the United Nations' approval.

This resolution calls on the Administration to explain clearly the steps that it will take to protect United States soldiers, allied forces, and Iraqi civilians from any known or suspected environmental hazards resulting from military operations. Everyone in this body has heard from veterans of the Gulf War who suffer and struggle even today, long after their period of sacrifice for their country should have ended. Based on what we know from these veterans, it is entirely reasonable to demand a plan now, not after the fact.

The resolution also calls for the Administration to provide estimates of the American and allied military casualties, Iraqi military casualties, and Iraqi civilian casualties resulting from military action against Iraq, and measures that will be taken to prevent civilian casualties and adhere to international humanitarian law. I know that America is a resilient society and a resolute society. But I am not at all

sure that Americans have been prepared for anything but the best-case scenario, and that is a disservice to the American people and a disservice to our military.

This resolution calls for an estimate of the full costs associated with military action against Iraq, including, but not limited to, providing humanitarian aid to the Iraqi people and to neighboring nations in light of possible refugee flows, reconstructing Iraq with or without allied support, and securing long-term political stability in Iraq and the region insofar as it is affected by such military action. I can tell you that right now in the Budget committee, we are flying blind, trying to make fiscally responsible decisions for the future while the Administration remains unwilling to provide an honest accounting of what this war will cost, or what it will cost to meet the humanitarian needs of Iraq, or what the long process of reconstruction will cost. We know that these are not small figures. And unfortunately, it looks as though we will be proceeding without a great deal of international support, meaning less burden-sharing and more shouldering of this cost on our own. And that is why this resolution also calls for an accounting of the anticipated short and long term effects of military action on the United States economy and the Federal budget.

I feel strongly that we should have demanded this information long ago. But we continue to ask, because Congress continues to have constitutional responsibilities. And I continue to hear from a tremendous number of my constituents who are deeply concerned about the prospect of a war with Iraq. The sources of their concern and their views on the issue vary, but in virtually all cases, they want to understand the range of options before us, and they are demanding more information about the costs and commitments they will incur as a result of decisions that we make here. They are right to insist on that information, to insist that we exercise some foresight here and wrestle honestly with the consequences that may follow from taking military action. Without such a discussion, we cannot hope to answer the most important question before us—will a given course of action make the U.S. more or less secure in the end.

I urge my colleagues to support this resolution, and to insist that the Administration provide this information before war breaks out. I voted against the resolution authorizing the use of force in Iraq last fall, because I was uncomfortable with the Administration's shifting justifications for war, dissatisfied with the vague answers available at the time relating to our plans for dealing with weapons of mass destruction and reconstruction in Iraq, and most of all, because I was concerned that this action would actually alienate key allies in the fight against terrorism. But even those who voted differently surely must believe that we

have a responsibility to answer these questions now, and to share the answers with our constituents, so that this great country is operating not on wishful thinking or simple ignorance, but with an understanding of the facts before us, and the awesome task ahead.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 83—COM-MENDING THE SERVICE OF DR. LLOYD J. OGILVIE, THE CHAP-LAIN OF THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

###### S. RES. 83

Whereas Dr. Lloyd J. Ogilvie became the 61st Senate Chaplain on March 13, 1995, and has faithfully served the Senate for 8 years as Senate Chaplain;

Whereas Dr. Ogilvie is the author of 49 books, including "Facing the Future without Fear"; and

Whereas Dr. Ogilvie graduated from Lake Forest College, Garrett Theological Seminary of Northwestern University and New College, University of Edinburgh, Scotland, and has served as a Presbyterian minister throughout his professional life, including being the senior pastor at First Presbyterian Church, Hollywood, California: Now, therefore, be it

*Resolved*, That—

(1) the Senate hereby honors Dr. Lloyd J. Ogilvie for his dedicated service as the Chaplain of the United States Senate; and

(2) the Secretary transmit an enrolled copy of this resolution to Dr. Ogilvie.

##### SENATE RESOLUTION 84—PRO-VIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

###### S. RES. 84

*Resolved*, That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Chambliss, Mr. Cochran, Mr. Smith, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Lott, Mr. Cochran, Mr. Dodd, and Mr. Schumer.

##### SENATE RESOLUTION 85—TO AMEND PARAGRAPH 2 OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. MILLER submitted the following resolution; which was referred to the Committee on Rules and Administration:

###### S. RES. 85

*Resolved*, That paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. (a)(1) Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by 16 Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and 1 hour after the Senate meets on the following calendar day but 1, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a ye-and-nay vote the question: "Is it the sense of the Senate that the debate shall be brought to a close?"

"(2) If the question in clause (1) is agreed to by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then that measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"(3) After cloture is invoked, no Senator shall be entitled to speak in all more than 1 hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least 1 hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"(4) After no more than 30 hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The 30 hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any 1 calendar day.

"(5) If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"(6) No Senator shall call up more than 2 amendments until every other Senator shall have had the opportunity to do likewise.

"(7) Notwithstanding other provisions of this rule, a Senator may yield all or part of