



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, TUESDAY, JANUARY 7, 2003

No. 1—Part II

## Senate

### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—Continued

By Mr. INOUE:

S. 69. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Veterans' Affairs.

Mr. INOUE. Mr. President, I am reintroducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great nation that we are today.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 69

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

#### SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any mili-

tary, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) that is available to the Secretary, including information and evidence submitted by the applicant, if any.

#### SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary of the Army shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

#### SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

#### SEC. 4. LIMITATION PERIOD.

The Secretary of the Army may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

#### SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period before the date of the enactment of this Act as a result of the enactment of this Act.

#### SEC. 6. REGULATIONS.

The Secretary of the Army shall prescribe regulations to carry out sections 1, 3, and 4.

#### SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations prescribed by the Secretary of Veterans Affairs.

#### SEC. 8. DEFINITION.

In this Act, the term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. INOUE:

S. 70. A bill to restore the traditional day of observance of Memorial Day, and for other purposes; to the Committee on the Judiciary.

Mr. INOUE. Mr. President, in our efforts to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our Nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our Nation.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 70

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

#### SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking "the last Monday in May." and inserting "May 30."

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking "The last Monday in May" and inserting "May 30"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

"(4) calling on the people of the United States to observe Memorial Day as a day of ceremonies for showing respect for American veterans of wars and other military conflicts; and".

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

(c) DISPLAY OF FLAG.—Section 6(d) of title 4, United States Code, is amended by striking “the last Monday in May;” and inserting “May 30;”.

By Mr. INOUE:

S. 73. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research.

Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect.

The purpose of this center is to support and disseminate information about basic and clinical social work research, and training, with an emphasis on service to underserved and rural populations.

While the Federal Government provides funding for various social work research activities through the National Institutes of Health and other federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation's children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based, quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and the central role that the Center for Social Work can provide in facilitating their work.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 73

*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 “National Center for Social Work Research Act”.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on

these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

#### SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

“(H) The National Center for Social Work Research.”

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

“Subpart 7—National Center for Social Work Research

##### “SEC. 485J. PURPOSE OF CENTER.

“The general purpose of the National Center for Social Work Research (referred to in this subpart as the ‘Center’) is the conduct and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

“(1) promote research and training that is designed to inform social work practices, thus increasing the knowledge base which promotes a healthier America; and

“(2) provide policymakers with empirically-based research information to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost efficiency.

##### “SEC. 485K. SPECIFIC AUTHORITIES.

“(a) IN GENERAL.—To carry out the purpose described in section 485J, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, the association of socioeconomic status, gender, ethnicity, age and geographical location and health, the social work care of individuals with, and families of individuals with, acute and chronic illnesses, child abuse, neglect, and youth violence, and child and family care to address problems of significant social concern especially in underserved populations and underserved geographical areas.

“(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

“(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

##### “SEC. 485L. ADVISORY COUNCIL.

“(a) DUTIES.—

“(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

“(2) GIFTS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipment, or maintenance of facilities for the Center.

“(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

“(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

“(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

“(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

“(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country and, with the approval of the Director of the Center, make such information available through appropriate publications; and

“(C) may appoint subcommittees and convene workshops and conferences.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

“(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

“(A) the Secretary of Health and Human Services, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, the Director of the Division of Epidemiology and Services Research, the Assistant Secretary of Health and Human Services for the Administration for Children and Families, the Assistant Secretary of Education for the Office of Educational Research and Improvement, the Assistant Secretary of Housing and Urban Development for Community Planning and Development, and the Assistant Attorney General for Office of Justice Programs (or the designees of such officers); and

“(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

“(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

“(A) not more than two-thirds of such individual shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be professional social workers who are recognized experts in the area of clinical practice, education, or research; and

“(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year.

“(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for an individual at grade GS-18 of the General Schedule.

“(c) TERMS.—

“(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

“(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

“(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

“(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

“(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

“(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

“(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485M—

“(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared;

“(2) comments on the progress of the Center in meeting its objectives; and

“(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

**“SEC. 485M. BIENNIAL REPORT.**

“The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485L(g).

**“SEC. 485N. QUARTERLY REPORT.**

“The Director of the Center shall prepare and submit to Congress a quarterly report that contains a summary of findings and policy implications derived from research conducted or supported through the Center.”.

By Mr. INOUE:

S. 74. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan program; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusion of behavioral science expertise into our community of public health providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our Nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 74

*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 “Strengthen the Public Health Service Act”.

**SEC. 2. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.**

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting “, or any public or nonprofit school that offers a graduate program in professional psychology” after “veterinary medicine”;

(2) in subsection (b)(4), by inserting “, or to a graduate degree in professional psychology” after “or doctor of veterinary medicine or an equivalent degree”; and

(3) in subsection (c)(1), by inserting “, or schools that offer graduate programs in professional psychology” after “veterinary medicine”.

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting “, or to a graduate degree in professional psychology” after “or doctor of veterinary medicine or an equivalent degree”;

(2) in subsection (c), in the matter preceding paragraph (1), by inserting “, or at a school that offers a graduate program in professional psychology” after “veterinary medicine”; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking “or podiatry” and inserting “podiatry, or professional psychology”; and

(B) in paragraph (4), by striking “or podiatric medicine” and inserting “podiatric medicine, or professional psychology”.

**SEC. 3. GENERAL PROVISIONS.**

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking “clinical” and inserting “professional”.

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking “clinical” and inserting “professional”.

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (42 U.S.C. 295p(1)(B)) is amended by striking “clinical” each place it appears and inserting “professional”.

By Mr. INOUE:

S. 75. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUE. Mr. President, today I introduce legislation on the Rural Preventive Health Care Training Act of 2003, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geographical barriers lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders.

An Institute of Medicine, IOM, report entitled, “Reducing Risks for Mental Disorders: Frontiers for Preventive

Intervention Research," highlights the benefits of preventive care for all health problems. The training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers lack preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through such training programs, rural health care providers can build a strong educational foundation in the behavioral, biological, and psychological sciences. Interdisciplinary team prevention training will also facilitate operations at sites with both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 2003 would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors.

The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential overall health and financial savings are enormous.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 75

*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 "Rural Preventive Health Care Training Act of 2003".

**SEC. 2. PREVENTIVE HEALTH CARE TRAINING.**

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:

**"SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.**

"(a) **IN GENERAL.**—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

"(b) **LIMITATION.**—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

"(c) **USE OF ASSISTANCE.**—Amounts received under a grant made or contract entered into under this section shall be used—

"(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

"(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

"(3) to provide training in appropriate research and program evaluation skills in rural communities;

"(4) to create and implement innovative programs and curricula with a specific prevention component; and

"(5) for other purposes as the Secretary determines to be appropriate.

"(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, \$5,000,000 for each of fiscal years 2004 through 2006."

By Mr. INOUE:

S. 77. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUE. Mr. President, on behalf of our Nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would: 1. establish a new social work training program, 2. ensure that social work students are eligible for support under the Health Careers Opportunity Program, 3. provide social work schools with eligibility for support under the Minority Centers of Excellence programs, 4. permit schools offering degrees in social work to obtain grants for training projects in geriatrics, and 5. ensure that social work is recognized as a profession under the Public Health Maintenance Organization Act.

Despite the impressive range of services social workers provide to people of this Nation, few Federal programs exist to provide opportunities for social work training in health and mental health care.

Social workers have long provided quality mental health services to our citizens and continue to be at the forefront of establishing innovative programs to serve our disadvantaged populations. I believe it is important to ensure that the special expertise social workers possess continues to be available to the citizens of this Nation. This bill, by providing financial assistance to schools of social work and social work students, acknowledges the long history and critical importance of the services provided by social work professionals. I believe it is time to provide them with the recognition the deserve.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 77

*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 "Strengthen Social Work Training Act of 2003".

**SEC. 2. SOCIAL WORK STUDENTS.**

(a) **HEALTH PROFESSIONS SCHOOL.**—Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293(g)(1)(A)) is amended by striking "graduate program in behavioral or mental health" and inserting "graduate program in behavioral or mental health including a school offering graduate programs in clinical social work, or programs in social work".

(b) **SCHOLARSHIPS, GENERALLY.**—Section 737(d)(1)(A) of the Public Health Service Act (42 U.S.C. 293a(d)(1)(A)) is amended by striking "mental health practice" and inserting "mental health practice including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

(c) **FACULTY POSITIONS.**—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293b(a)(3)) is amended by striking "offering graduate programs in behavioral and mental health" and inserting "offering graduate programs in behavioral and mental health including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

**SEC. 3. GERIATRICS TRAINING PROJECTS.**

Section 753(b)(1) of the Public Health Service Act (42 U.S.C. 294c(b)(1)) is amended by inserting "schools offering degrees in social work," after "teaching hospitals,".

**SEC. 4. SOCIAL WORK TRAINING PROGRAM.**

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

**"SEC. 770. SOCIAL WORK TRAINING PROGRAM.**

"(a) **TRAINING GENERALLY.**—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

"(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

**"(b) ACADEMIC ADMINISTRATIVE UNITS.**—

"(1) **IN GENERAL.**—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions,

or other units) to provide clinical instruction in social work.

“(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

“(A) establishing an academic administrative unit for programs in social work; or

“(B) substantially expanding the programs of such a unit.

“(C) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

“(d) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2004 through 2006.

“(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).”; and

(3) in section 770A (as so redesignated) by inserting “other than section 770,” after “carrying out this subpart.”.

#### SEC. 5. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e-1) is amended—

(1) in paragraphs (1) and (2), by inserting “clinical social worker,” after “psychologist,” each place it appears;

(2) in paragraph (4)(A), by striking “and psychologists” and inserting “psychologists, and clinical social workers”; and

(3) in paragraph (5), by inserting “clinical social work,” after “psychology.”.

By Mr. INOUE:

S. 78. A bill to amend Title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

Mr. INOUE. Mr. President, today I introduce legislation to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and professional psychologists in the Veterans Health Administration, VHA. The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served our country in the Armed Forces.

Recently, a distressing situation regarding the care of our veterans has come to my attention: the recruitment and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions afflicting a significant portion of our veterans. Programs related to homelessness, substance abuse, and post traumatic stress disorder have received funding from the Congress in recent years.

Psychologists, as behavioral science experts, are essential to the successful

implementation of these programs. Consequently, the high vacancy and turnover rates for psychologists in the VHA might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale that is not commensurate with private sector rates together with a low number of clinical and professional psychologists appearing on the register of the Office of Personnel Management, OPM. Most new hires have no post-doctoral experience, and are hired immediately after a VHA internship. Recruitment, when successful, takes up to six months or longer.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40 percent of VHA psychologists have five years or less of post-doctoral experience. Psychologists leave the VHA system after five years because they have almost reached peak levels for salary and professional advancement. Under the present system, psychologists cannot be recognized, or appropriately compensated, for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral and mental health disorders deserve better psychological care from more experienced professionals than they are now receiving.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is without question a significant factor in the recruitment and retention difficulties that I have mentioned.

Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems. The length of time needed to recruit psychologists could be shortened by eliminating the requirement for applicants to be rated by the OPM. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated by the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and efficiency of patient care, making significant contributions to the science of psychology, and becoming a Fellow of the American Psychological Association.

The addition of psychologists to Title 38, as proposed by this amendment,

would provide relief for the retention and recruitment issues and enhance the quality of care for our veterans and their families.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 78

*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 “Veteran's Health Administration Act of 2003”.

#### SEC. 2. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF PROFESSIONAL PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking “who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary”.

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking “Certified or” and inserting “Professional psychologists, certified or”; and

(2) in paragraph (2)(B), by striking “Certified or” and inserting “Professional psychologists, certified or”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of professional psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than one year after the date of the enactment of this Act.

By Mr. INOUE:

S. 79. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

Mr. INOUE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our Nation's clinical social workers to use their mental health expertise on behalf of the Federal judiciary by conducting psychological and psychiatric exams.

I feel that the time has come to allow our Nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our Nation's best interest.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 79

*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 “Psychiatric and Psychological Examinations Act of 2003”.

**SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.**

Section 4247(b) of title 18, United States Code, is amended, in the first sentence, by striking "psychiatrist or psychologist" and inserting "psychiatrist, psychologist, or clinical social worker".

By Mr. IOUYE:

S. 80. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a Federal charter for the National Academies of Practice. This organization represents outstanding medical professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and pharmacy. When fully established, each of the ten academies will possess 100 distinguished practitioners selected by their peers. These academics will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has direct and immediate access to the recommendations of an interdisciplinary body of health care practitioners.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 80

*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 "National Academies of Practice Recognition Act of 2003".

**SEC. 2. CHARTER.**

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

**SEC. 3. CORPORATE POWERS.**

The National Academies of Practice (referred to in this Act as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

**SEC. 4. PURPOSES OF CORPORATION.**

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, pharmacy, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

**SEC. 5. SERVICE OF PROCESS.**

With respect to service of process, the corporation shall comply with the laws of the

State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

**SEC. 6. MEMBERSHIP.**

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

**SEC. 7. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.**

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

**SEC. 8. OFFICERS OF THE CORPORATION.**

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

**SEC. 9. RESTRICTIONS.**

(a) **USE OF INCOME AND ASSETS.**—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of the charter under this Act. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) **LOANS.**—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) **POLITICAL ACTIVITY.**—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) **ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.**—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) **CLAIMS OF FEDERAL APPROVAL.**—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

**SEC. 10. LIABILITY.**

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

**SEC. 11. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.**

(a) **BOOKS AND RECORDS OF ACCOUNT.**—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) **NAMES AND ADDRESSES OF MEMBERS.**—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) **RIGHT TO INSPECT BOOKS AND RECORDS.**—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) **APPLICATION OF STATE LAW.**—Nothing in this section shall be construed to contravene any applicable State law.

**SEC. 12. ANNUAL REPORT.**

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. The report shall not be printed as a public document.

**SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.**

The right to alter, amend, or repeal this Act is expressly reserved to Congress.

**SEC. 14. DEFINITION.**

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

**SEC. 15. TAX-EXEMPT STATUS.**

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

**SEC. 16. TERMINATION.**

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 81. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

Mr. INOUYE. Mr. President, today I introduce the Clinical Social Workers' Recognition Act of 2003 to correct a continuing problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the nation. However, Title V of the United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by federal employees. The bill I am introducing corrects this problem.

It is a sad irony that federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this same professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits Federal employees' selection of a provider to conduct the workers' compensation mental health evaluations. Lack of this recognition may well impose an undue burden on Federal employees where clinical social workers are the only available providers of mental health care.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 81

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

This Act may be cited as the "Clinical Social Workers' Recognition Act of 2003".

**SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.**

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2), by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers"; and

(2) in paragraph (3), by striking "osteopathic practitioners" and inserting "osteopathic practitioners, clinical social workers,".

By Mr. INOUE:

S. 82. A bill to amend the Internal Revenue Code of 1986 to exempt certain helicopter uses from ticket taxes on transportation by air; to the Committee on Finance.

Mr. INOUE. Mr. President, I rise to introduce legislation that would exempt from the Airport and Airway Trust Fund excise taxes on air transportation by helicopters of individuals and cargo for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance on the Island of Kahoolawe.

The Kahoolawe Island Unexploded Ordnance Clearance and Environmental Restoration Project is authorized under Title X of the Fiscal Year 1994 Department of Defense Appropriations Act. The Island of Kahoolawe is uninhabited, and it served as a bombing range for the Department of Defense until 1990. The Department of Defense is currently in the process of cleaning up and restoring Kahoolawe for its eventual return to the State of Hawaii.

The Airport and Airway Trust Fund excise taxes help support our nation's air traffic systems and airport infrastructures. However, there are no airports or landing zones on Kahoolawe that receive benefits from the Trust Fund. In addition, the taxes place an undue burden on the air transportation services provided to the Kahoolawe Clearance Project. Compared to a normal airline whose aircraft make fewer trips per day over much longer distances, the services provided to the project are very frequent, with many trips over very short distances. I urge my colleagues to support this measure.

I ask unanimous consent that the full text of my bill be printed in the RECORD.

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

S. 82

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

**SECTION 1. EXEMPTION OF CERTAIN HELICOPTER USES FROM TAXES ON TRANSPORTATION BY AIR.**

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) **ADDITIONAL EXEMPTION FOR CERTAIN HELICOPTER USES.**—No tax shall be imposed under this section or section 4271 on air transportation by helicopter for the purpose of transporting individuals and cargo to and from sites for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance.”.

(b) **CONFORMING AMENDMENT.**—Section 4041(1) of the Internal Revenue Code of 1986 is amended by striking “(f) or (g)” and inserting “(f), (g), or (i)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transpor-

tation beginning after June 30, 1997, and before August 1, 2005.

By Mrs. CLINTON (for herself and Mr. DURBIN):

S. 86. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the health insurance expenses of small businesses; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I am introducing the Small Employer Tax Assistance for Health Care Act of 2003, SETAH, a bill to provide tax subsidy to small employers to help them provide health coverage to their workers.

The problem of the uninsured is a problem of working families, but 7 out of 10 workers without coverage are not even offered coverage through their employers. This bill provides assistance and incentives for those employers who are least likely and least able to afford coverage for their workers, small, low-wage firms.

Statistics show that small firms are half as likely to offer coverage as large firms, while the offer rate for small low-wage firms is cut 50 percent further, compared to small high-wage firms.

This legislation will offer a significant tax break to those businesses in order to subsidize their purchase of health insurance. The credit is designed sensibly, so that rates adjust slowly as firm size and average wage increase.

Tax credits can unintentionally penalize firms that grow beyond the eligibility limitation. For instance, a tax credit for firms smaller than 20 means a firm's decision to add the 21st worker could add thousands to their tax bill. Tax credits should help businesses and their workers prosper, and not unintentionally discourage business growth.

The bill would contain the following elements:

**50 Percent Credit to Help Workers at Smallest and Lowest-Wage firms.** All firms smaller than 10, whose average worker earns minimum wage, are the ones who have the lowest insurance offer rates. These firms will receive a 50 percent tax credit up to \$2000 per individual policy, and \$5000 per family.

**Double Phase-Out.** Tax credits can unintentionally penalize firms that grow beyond the eligibility limitation. Using a “double phase-out” so that the tax credit diminishes gradually as firm size and average wage increase, eliminating the “cliff effect” that would otherwise discourage firms from adding employees or increasing wages.

**5 Percent Floor.** All firms under 50 workers, with average wages under \$30,000, would be protected by a 5 percent floor.

**Simplified Eligibility for All Small Low-Wage Firms.** Restricting tax credits to only those firms who did not previously offer can unintentionally give small businesses starting out an incentive not to offer health insurance. By contract, the SETAH credit will be available to all small, low-wage firms,

defined as smaller than 50 employees, and under \$30,000 in average wages, that quality, regardless of whether they have offered coverage before. This helps employers who are doing the right thing and encourages others to follow their example by offering coverage.

**Fiscally Prudent Targeting.** Because the credit is well-targeted to firms who are unlikely to offer anyway, the credit remains less duplicative and more efficient than other credits. At an overall cost of \$6 to \$7 billion annually, the SETAH credit covers 3.3 million new individuals for roughly \$2000 per newly insured individual, which is crucial in an era of fiscal prudence.

By Mrs. CLINTON (for herself, Mr. DURBIN, Mr. CORZINE, Mrs. BOXER, Mr. SCHUMER, Mrs. FEINSTEIN, and Ms. STABENOW):

S. 87. A bill to provide for homeland security block grants; to the Committee on Governmental Affairs.

Mrs. CLINTON. Mr. President, I am very concerned about the kind of economic policies we are pursuing because I believe in the absence of changing our economic policies we are not likely to get our economy growing again. It is important we do all we can to make the right decisions.

I know the President was in Chicago today. He addressed his proposal for the economy. I understand it is a package of approximately \$650 billion, most of which concern some provisions that will affect relatively affluent Americans. I look forward to seeing what else is in that package.

We have to recognize the economic challenges we now confront are not just ones in Washington but are throughout our Nation, in the capitals of our States, and in our cities. In Washington, we have to be cognizant of the ripple effect on revenues to our States and cities by the decisions we make.

In fact, one of the unintended consequences of many of the changes that were made at the beginning of the 107th Congress with respect to tax policy and that are embedded in what the President is proposing will mean further reduction of revenues for State governments, which cannot print money, which have to balance budgets, which have to live within their means, and the net effect will be either States having to raise their taxes, local communities having to raise their property taxes, or dramatic cuts in services.

Among those services that we cannot as a Nation afford to cut are the ones that directly bear on homeland security: Our police and law enforcement officers, our firefighters, and our first responders. Today I am reintroducing the Homeland Security Block Grant Act that would provide direct funding to our local communities.

For me, this is one of our first orders of business because our first responders are our first line of defense at home.

Since September 11, 2001, cities, counties, and towns, large and small,

urban and rural, have responded to the call to be more vigilant, to beef up our homeland defenses. They have invested more than \$2.6 billion from their own budgets. They have purchased more equipment. They have provided training for emergency responders. They are doing the very best they can to deal with all of the new challenges and threats we face.

I have met with mayors, fire commissioners, police chiefs, and other emergency workers who all tell me they do not have the resources they need in order to protect us.

I have conducted a survey of towns, cities, and counties across New York. From Buffalo to the tip of Long Island, we have heard the same thing: Despite this body's passage of legislation creating a Homeland Security Department, they have yet to see any additional funding where they need it most, close to home.

Most of the money that has been passed and sent to the States has not been addressed directly at beefing up local fire, police, and emergency responders but for a specialized purpose of confronting the challenge of bioterrorism.

We have a declining economy, rising unemployment, terrible revenue problems in our cities and States, and our answer has been to create a new bureaucracy in Washington. I believe creating the new Homeland Security Department, without funding our first responders on the front lines, is like building a hospital without hiring doctors and nurses. We may have a good plan on paper, but we do not have the means to execute it.

The bill I am introducing will give our first responders \$3.5 billion to give them the resources they need to do what they know they must accomplish. We should not be determining in Washington how they spend this money. That should be done at the local level. What Buffalo needs may be different from Rochester which is different from Syracuse or Albany. It makes no sense to hold up this money any longer. We should disperse the money appropriated and we should funnel it, State to local communities, and we should be looking at what our unmet needs are.

The Homeland Security Block Grant Act of 2003 will provide direct funding to our communities and first responders. That is where the money should go.

I am delighted—my belief that this is the appropriate step to take is endorsed by the United States Conference of Mayors, the International Association of Fire Chiefs, the International Association of Firefighters, the Major Cities Police Chiefs Association, the National Association of Police Organizations, and the Police Executive Research Forum.

We did well today to deal with part of our problem when it comes to the unemployed. I look forward to working with my colleagues to deal with the other part, which are those who are

chronically unemployed, to come up with ways of helping them be able to make a transition or just hold their families together until the economy turns around. I also hope we will address homeland security in a way that gets the money where it needs to be, on the front lines of our cities, our towns, with our police and our firefighters and emergency responders. That would send a strong signal that homeland security is not just a slogan, it is a reality throughout America.

I yield the floor.

By Mr. HOLLINGS:

S. 88. A bill to amend the Internal Revenue Code of 1986 to suspend future reductions of income tax rates if the Social Security surpluses are used to fund such tax rate cuts; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, we have a whole list of every senator, and every candidate in last year's election, all coming out and saying we won't touch Social Security. The President of the United States promised Congress in his first address to a Joint Session in February 2001 that all Social Security surplus money will be budgeted for Social Security and Social Security only.

Now that everyone is talking about cutting taxes, I do not want to forget the promises made on Social Security. I want to hold everyone to their word, because that is what the American people who depend on Social Security want as priority one. So, today, I am introducing a bill that says if the Treasury Secretary of the United States determines that if on October 1, 2003, there is a Federal on-budget deficit, future reductions in income tax rates will be suspended. Once the deficit no longer exists, the tax reductions can be put in place again.

Don't get me wrong, I'm not trying to do away with tax cuts, so long as you can pay for them. The purpose of this Act is simply to ensure that no Social Security surpluses be used to pay for any further tax cuts. I want to make sure Social Security will be around when everyone retires.

So I look forward to working with my colleagues on both sides of the aisle to pass this and make Social Security secure once and for all.

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

S. 90. A bill to extend certain budgetary enforcement to maintain fiscal accountability and responsibility; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

LEGISLATION TO EXTEND BUDGET ENFORCEMENT

Mr. FEINGOLD. Mr. President, I am pleased to join today with my colleague from New Hampshire, Mr. GREGG, to introduce legislation to ex-

tend budgetary enforcement and to maintain fiscal accountability and responsibility. This bill would ensure that the budget rules that govern the congressional budget process do not expire on April 15 of this year.

On October 16 of last year, Senator GREGG and I joined with Senators CONRAD and DOMENICI to offer an amendment to extend the budget process. The Senate agreed to our amendment, Senate amendment No. 4886 to S. Res. 304, but with a modification that limited the extension to April 15. Thus the Senate must act before April 15 on legislation like that which Senator GREGG and I propose today, or we will risk allowing the Congress to legislate in an environment nearly completely unconstrained by budget discipline.

The last 2 years have seen an unfortunate deterioration in the Government's ability to perform one of its most fundamental jobs—balancing the Nation's fiscal books.

In January of 2001, the Congressional Budget Office projected that in the fiscal year that ended a few months ago on September 30, 2002, fiscal year 2002, the Government would run a unified budget surplus of \$313 billion. In the actual event, however, the Government ran a unified budget deficit of \$159 billion. That's a dramatic swing of \$472 billion—the disappearance of nearly half a trillion dollars—for that one year alone.

And without counting Social Security, the Government ran a deficit of fully \$318 billion in fiscal year 2002. Last year, the Government used \$160 billion of income received by the Social Security trust fund to fund other Government programs.

For the 4 years before this past year, the Government ran unified budget surpluses. The Government demonstrated that it can exercise fiscal restraint, if it chooses to.

But now, CBO projects that under current policies, unified budget deficits will continue until 2006. And without counting Social Security, CBO projects that deficits will continue until 2011, when the hypothetical sunset of the tax cut brings us back to surplus again, just barely.

And using more realistic assumptions of not sunseting tax cuts just enacted and letting appropriations keep pace with inflation, CBO estimated last month in response to a request from Senator VOINOVICH and me that deficits will continue at least until 2009.

We must stop running deficits because they cause the Government to use the surpluses of the Social Security trust fund for other government purposes, rather than to pay down the debt and help our nation prepare for the coming retirement of the baby boom generation.

And we must stop running deficits because every dollar that we add to the Federal debt is another dollar that we are forcing our children to pay back in higher taxes or fewer government benefits. When the Government in this generation chooses to spend on current

consumption and to accumulate debt for our children's generation to pay, it does nothing less than rob our children of their own choices. We make our choices to spend on our wants, but we saddle them with debts that they must pay from their tax dollars and their hard work. And that is not right.

That is why I am joining today with my colleague from New Hampshire to introduce this bill to extend the budget process. We need a strong budget process. We need to exert fiscal discipline.

Our bill would extend the budget process for 5 years, to October 1, 2007.

Specifically, it would extend the requirement that entitlement and tax legislation be paid for, or trigger automatic cuts—called “sequesters”—in entitlement programs if they are not. We would provide that these automatic cuts would not take place when the Government is running a surplus.

Similarly, our bill would extend the pay-as-you-go rule in Senate procedures, as well, maintaining 60-vote points of order that enforce the pay-as-you-go rule. As we did in our amendment at the close of the last Congress, our bill would prevent savings achieved in reconciliation legislation from being used to offset new spending or tax cuts in other legislation. And to ensure that there is no loophole for entitlements enacted in appropriations measures, our bill would provide that entitlement expansions and tax cuts added to appropriations bills would be subjected to the pay-as-you-go rule, as well.

Our bill would extend other Congressional Budget Act enforcement mechanisms, as well. All the provisions of the Congressional Budget Act that now require 60 votes to waive would remain in effect in the Senate through October 1, 2007.

Finally, our bill would call for appropriations caps. It would state the sense of the Senate that Congress and the President should negotiate and agree on the appropriate discretionary spending levels and extend the statutory discretionary spending caps for 2003 and beyond as early as possible in a manner consistent with fiscal discipline and accountability.

That is what our bill would do. It is a straightforward bill. It is the least that we should do to ensure fiscal responsibility and sound budgeting.

We must stop using Social Security surpluses to fund other Government programs. We must stop piling up debt for our children to pay off. We must continue the discipline of the budget process.

Together with my colleague from New Hampshire, Mr. GREGG, I will work to those ends. I urge my colleagues to join us.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of the bill appear in the RECORD.

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

GREGG-FEINGOLD BUDGET PROCESS LAW  
EXTENSION—SECTION-BY-SECTION ANALYSIS  
EXTENDING THE PAY-AS-YOU-GO REQUIREMENT  
AND AUTOMATIC CUTS IN STATUTE

Subsection 1(a)(1) extends the requirement that entitlement and tax legislation be paid for, or cause automatic cuts (called “sequesters”) in entitlement programs.

Subsection 1(a)(2) provides that these automatic cuts would not take place when the government is running a surplus.

Subsection 1(b) pushes back the expiration of the mechanisms that cause the automatic cuts to October 1, 2007.

EXTENDING BUDGET ACT ENFORCEMENT

Subsection 2(a) provides that the provisions of the Congressional Budget Act that require 60 votes to waive Budget Act points of order will remain in effect in the Senate through October 1, 2007.

EXTENDING THE PAY-AS-YOU-GO RULE IN  
SENATE RULES

Subsection 2(b) extends the pay-as-you-go rule in the Senate.

Subsection 2(b)(1)(A) prevents savings achieved in reconciliation legislation from being used to offset new spending or tax cuts in other legislation.

Subsection 2(b)(1)(B) extends the existing pay-as-you-go point of order (in section 207 of the fiscal year 2000 budget resolution, H. Con. Res. 68 (106th Congress, 1st Session)) through October 1, 2007.

Subsection 2(b)(2) provides that entitlement expansions and tax cuts added to appropriations bills shall be subjected to the pay-as-you-go rule, just as if they were part of freestanding entitlement or tax legislation.

CALLING FOR APPROPRIATIONS CAPS

Section 3 states the sense of the Senate that Congress and the President should negotiate and agree on the appropriate discretionary spending levels and extend the statutory discretionary spending caps for 2003 and beyond as early as possible in a manner consistent with fiscal disciplines and accountability.

S. 90

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

**SECTION 1. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.**

(a) IN GENERAL.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended—

(1) in subsections (a) and (b)(1), by striking “enacted before October 1, 2002,” and inserting “enacted before October 1, 2007”; and

(2) in subsection (b), by inserting at the end thereof the following:

“(3) EXCEPTION.—Notwithstanding any other provision of law, there shall be no sequestration under this section for any fiscal year in which a surplus exists (as measured in conformance with section 13301 of the Budget Enforcement Act of 1990).”

(b) ENFORCEMENT.—The second sentence of section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended by striking “2006” and inserting “2007”.

**SEC. 2. EXTENSION OF BUDGET POINTS OF ORDER AND RULES IN THE SENATE.**

(a) EXTENSION OF SUPERMAJORITY ENFORCEMENT.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through October 1, 2007.

(b) PAY-AS-YOU-GO RULE IN THE SENATE.—

(1) IN GENERAL.—Section 207 of H. Con. Res. 68 (106th Congress, 1st Session) is amended—

(A) in subsection (b)(6), by inserting after “paragraph (5)(A)” the following: “, except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available”; and

(B) in subsection (g), by striking “April 15, 2003” and inserting “October 1, 2007”.

(2) APPLICATION TO APPROPRIATIONS.—For the purposes of enforcing this section, notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, during the consideration of any appropriations Act, provisions of an amendment (other than an amendment reported by the Committee on Appropriations including routine and ongoing direct spending or receipts), a motion, or a conference report thereon (only to the extent that such provision was not committed to conference), that would have been estimated as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 207 of H. Con. Res. 68 (106th Congress, 1st Session) as amended by this section.

**SEC. 3. SENSE OF THE SENATE ON EXTENSION OF STATUTORY DISCRETIONARY SPENDING CAPS.**

It is the sense of the Senate that Congress and the President should negotiate and agree on the appropriate discretionary spending levels and extend the statutory discretionary spending caps for 2003 and beyond as early as possible during the 108th Congress in a manner consistent with fiscal disciplines and accountability.

By Mr. GRASSLEY (for himself, Mr. FEINGOLD, Mr. ENZI, and Mr. HARKIN):

S. 91. A bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, the Fair Contracts for Growers Act of 2003 would simply give farmers a choice of venues to resolve disputes associated with agricultural contracts. This legislation would not prohibit arbitration. Instead, it would ensure that the decision to arbitrate is truly voluntary and that the rights and remedies provided for by our judicial system are not waived under coercion.

I certainly recognize that arbitration has its benefits. In certain cases, it can be less costly than other dispute settlement means. In certain other cases, it can remove some of the workload from our nation's overburdened court system. For these reasons, arbitration must be an option—but it should be no more than an option.

Mandatory arbitration clauses are used in a growing number of agricultural contracts between individual farmers and processors. These provisions limit a farmer's ability to resolve a dispute with the company, even when a violation of Federal and State law is suspected. Rather than having the option to pursue a claim in court, disputes are required to go through an arbitration process that puts the farmer

at a severe disadvantage. Such disputes often involve instances of discrimination, fraud, or negligent misrepresentation. Such disputes often involve instances of discrimination, fraud, or negligent misrepresentation. The effect of these violations for the individual farmer can be bankruptcy and financial ruin, and mandatory arbitration clauses make it impossible for farmers to seek redress in court.

When a farmer chooses arbitration, the farmer is waving rights to access to the courts and the constitutional right to a jury trial. Certain standardized court rules are also waived, such as the right to discovery. This is important because the farmer must prove his case, the company has the relevant information, and the farmer can not prevail unless he can compel disclosure of relevant information.

Examples of farmers' concerns that have gone unaddressed due to limitations on dispute resolution options include; mis-weighted animals, bad feed cases, wrongful termination of contracts, diseased swine or birds provided by the company, fraud and misrepresentation to induce a grower to enter a contract, and retaliation by companies against farmers who join producer associations.

During consideration of the Farm Bill, the Senate passed, by a vote of 64-31, the Feingold-Grassley amendment to give farmers a choice of venues to resolve disputes associated with agricultural contracts.

During the last session of Congress, 66 Senators cosponsored S. 1140, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001, to provide similar protection from mandatory arbitration clauses in franchise agreements between auto dealers and manufacturers. This legislation was enacted at the end of the last session. It is my hope that we will be able to move this legislation in an equally efficient fashion.

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. 91

*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 Contracts for Growers Act of 2003".

**SEC. 2. ELECTION OF ARBITRATION.**

(a) IN GENERAL.—Chapter 1 of title 9, United States Code, is amended by adding at the end the following:

**“§ 17. Livestock and poultry contracts**

“(a) DEFINITIONS.—In this section:

“(1) LIVESTOCK.—The term ‘livestock’ has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

“(2) LIVESTOCK OR POULTRY CONTRACT.—The term ‘livestock or poultry contract’ means any growout contract, marketing agreement, or other arrangement under which a livestock or poultry grower raises and cares for livestock or poultry.

“(3) LIVESTOCK OR POULTRY GROWER.—The term ‘livestock or poultry grower’ means any person engaged in the business of raising and caring for livestock or poultry in accordance with a livestock or poultry contract, whether the livestock or poultry is owned by the person or by another person.

“(4) POULTRY.—The term ‘poultry’ has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

“(b) CONSENT TO ARBITRATION.—If a livestock or poultry contract provides for the use of arbitration to resolve a controversy under the livestock or poultry contract, arbitration may be used to settle the controversy only if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

“(c) EXPLANATION OF BASIS FOR AWARDS.—If arbitration is elected to settle a dispute under a livestock or poultry contract, the arbitrator shall provide to the parties to the contract a written explanation of the factual and legal basis for the award.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 9, United States Code, is amended by adding at the end the following:

“17. Livestock and poultry contracts.”.

**SEC. 3. EFFECTIVE DATE.**

The amendments made by section 2 shall apply to a contract entered into, amended, altered, modified, renewed, or extended after the date of enactment of this Act.

By Mr. INOUE:

S. 97. A bill to treat certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness; to the Committee on Finance.

Mr. INOUE. Mr. President, I rise to introduce legislation that would extend to qualified teaching hospital support organizations the existing debt-financed property rules that apply to tax-exempt educational organizations, pension funds, and investment consortia of qualified schools and funds.

In a June 21, 2002, article, the New York Times describes the financial straits that nonprofit hospitals now face. More and more people in our weakened economy are seeking medical care from nonprofit hospitals. As a condition for Federal tax exemption, nonprofit hospitals must provide significant charitable services. Fees from other patients, especially in orthopedics, cardiology, and oncology, have in the past, allowed nonprofit hospitals to cover the expense of caring for the poor.

For-profit entrepreneurs, however, are better positioned to win away these specialty care patients because they are not burdened by the same requirement to provide indigent care. Consequently, investors and lenders have readily funded for-profit health care ventures. This available capital allows profit-making companies to build the most up-to-date facilities in competing for the high-margin patient.

No doubt, for-profit operations do offer charity care, but their profit orientation limits the amount they will provide. For example, residency and fellowship programs to train our doctors are not profitable, and, therefore, as the New York Times points out,

nearly all the postgraduate medical education in the United States is provided by the nonprofit hospitals.

Of course, rising costs, such as for wages, supplies, and insurance, further compound the problem of nonprofit hospitals of stretching their income to cover significant charitable services. In addition, many of these nonprofit hospitals cannot raise or borrow the capital to modernize. They cover operating costs by postponing hospital maintenance and deferring the purchase of new technology, exacerbating an already bad situation. Eventually, as the New York Times article documents, more and more nonprofit hospitals will be forced to sell their facilities to for-profit enterprises.

The Queen's Medical Center in Honolulu faces these very same financial difficulties. This 143-year-old nonprofit hospital system maintains the largest private, nonprofit hospital in my state. It is a teaching hospital that provides residency training in a number of areas, and it treated 18,000 inpatients and 200,000 outpatients in 2001. With the only accredited trauma center in Hawaii, it served over 40,000 individuals without regard to their ability to pay. Medicaid and Medicare patients comprise nearly 60 percent of all its admissions.

In addition, the Center directly, or through its affiliates, operates community clinics throughout the state, conducts professional training programs, offers home health services, maintains a medical library, in addition to running a rural hospital on the rural, economically depressed Island of Molokai. Like other nonprofit hospitals, the Center provides significant charitable care, with nearly \$23 million in uncompensated services in 2002.

Further, like other nonprofit hospitals, it has grave problems raising the funds needed to support all these uncompensated services while at the same time renovating and expanding its treatment facilities. A recent report from the Healthcare Association of Hawaii estimated that the hospitals in my state, similar to hospitals nationwide, will face additional, major losses this year due to reduced reimbursements, higher costs, and greater demand for services.

In the past, Congress has allowed tax-exempt schools, colleges, universities, and pension funds to invest in real estate development so as to help meet these institutions' financial needs. Under the tax code these organizations can incur debt to develop their real estate holdings without triggering the tax on unrelated business activities. Our nonprofit teaching hospitals have equal if not more pressing needs and should have the same opportunity. Unless Congress wishes to assume responsibility for charitable health care, we must help our nonprofit hospitals, especially the teaching hospitals. My bill, which is identical to an amendment that the Senate had previously

adopted during the debate of the Economic Growth and Tax Relief Reconciliation Act of 2001, would allow support organizations for qualified nonprofit teaching hospital to engage in limited real estate activities. These nonprofit hospitals would thereby be able to supplement their investment income in order to meet the growing demand placed on them for more community service.

I ask unanimous consent that the text of the bill and the New York Times article be printed in the RECORD.

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

S. 97

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

**SECTION 1. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.**

(a) IN GENERAL.—Subparagraph (C) of section 514(c)(9) of the Internal Revenue Code of 1986 (relating to real property acquired by a qualified organization) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “; or”, and by adding at the end the following new clause:

“(iv) a qualified hospital support organization (as defined in subparagraph (I)).”

(b) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—Paragraph (9) of section 514(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(I) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term ‘qualified hospital support organization’ means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

“(i) more than half of its assets (by value) at any time since its organization—

“(I) were acquired, directly or indirectly, by testamentary gift or devise, and

“(II) consisted of real property, and

“(ii) the fair market value of the organization’s real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term ‘eligible indebtedness’ means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred after December 31, 2003.

[From the New York Times, June 21, 2002]

**DEMAND, BUT NO CAPITAL, AT NONPROFIT HOSPITALS**

(By Reed Abelson)

As nonprofit hospitals around the country struggle with a surprising growth in admissions, many are finding it increasingly difficult to raise the money they need to meet the new demands on them.

The need for capital is becoming so intense that nonprofit hospitals are selling facilities to their for-profit cousins, which are better able to find money to operate them, or starting joint ventures in which for-profit companies put up cash to renovate a hospital or expand into a new area. Others make do with outdated facilities and medical equipment, even as for-profit hospitals invest in new technologies.

Critics of for-profit hospitals have long raised concerns about how those institutions operate, pointing to instances when they have acquired nonprofits and then cut the staff or reduced the amount of charity care being provided. Other experts say there are no significant differences in those areas, and many for-profit companies say they intend to provide the same care to patients but with better facilities.

Still, nonprofit hospitals, roughly 85 percent of all the hospitals in the United States, provide nearly all the postgraduate medical education, and if nonprofits continue to struggle financially, many of them will be trained doctors in out-of-date facilities—or selling facilities to for-profit companies that may prove to have no interest in operating residency and fellow-ship programs for doctors.

“The needs are higher than they have been in the past,” said Bruce Vladeck, a professor of health policy at the Mount Sinai School of Medicine in New York. Without access to enough capital, many nonprofit hospitals, he fears, will focus only on projects that can demonstrate a financial return, like a new cardiology center. “It’s harder and harder to finance esoteric stuff that isn’t profitable,” he said, as well as basic services like pediatrics.

Higher labor costs, rising malpractice insurance premiums and other expenses have all battered the nonprofits’ finances, even if some have benefited from the growing demand for their services.

Since the beginning of 2000, Moody’s Investors Service has downgraded 121 nonprofit hospitals, affecting \$34 billion of bonds, and upgraded only 38 with \$7 billion in bonds. About 9 percent of Moody’s nonprofit hospital portfolio is now considered below investment grade, compared with 7 percent in 199, and most hospitals are not even rated.

“We’ve got a majority of the nation’s hospitals in serious financial difficulty,” said Carmela Coyle, a senior vice president for the American Hospital Association.

A number of hospitals, unable to make the kind of investments needed, are taking dramatic steps:

Catholic Health Initiatives, one of the nation’s largest nonprofit hospital chains, said in late May that it planned to sell three hospitals in Albuquerque to Ardent Health Services, a for-profit company that will invest at least \$40 million in them.

Memorial Hospital of Salem County agreed last November to be bought by Community Health Systems, another for-profit company. If the deal receives regulatory approval, Memorial will become New Jersey’s only for-profit acute-care hospital. While Community Health has said it will invest \$30 million in the hospital, advocacy groups like New Jersey Citizen Action have raised concerns about the change of the hospital’s status and its possible impact on charity care. Commu-

nity Health says it is committed to providing the same levels of charity care as Memorial.

In Fairmont, W. Va., the operations of the community hospital are being turned over to Triad Hospitals, a for-profit company that has promised to spend \$75 million to build a new hospital.

The flurry of deals is beginning to echo the situation in the mid-1990’s, when for-profit chains gobbled up many nonprofit hospitals. “There are several signs that acquisition activity is heating up in the hospital sector,” said Nancy Weaver, an analyst for Stephens Inc.

Many for-profit companies are flush with cash from growing profits, a result of higher reimbursements, and surging stock prices. These companies can readily find the money to invest, sometimes by selling more stock or issuing corporate bonds.

“There is no question that this does put the nonprofits at a disadvantage,” said Stuart H. Altman, a professor of national health policy at Brandeis University.

HCA, for example, which was struggling to overcome huge legal problems and overly aggressive expansion just a few years ago, is planning \$1.6 billion in capital spending this year and plans to open a new hospital in Denver at a cost of \$147 million this year. Triad expects to make capital investments worth roughly \$350 million this year at 47 hospitals in 16 states.

In some cases, for-profit hospitals are buying troubled institutions that have been poorly managed for years. In addition to much-needed capital, the new owners may bring in stronger management and improved business practices.

In other instances, the prospects of better access to capital is leading some nonprofit hospitals to seek out joint ventures with for-profit companies.

“We’re seeing a lot of partnerships going on,” said Ms. Weaver, including for-profit companies providing capital to build surgical centers in partnership with nonprofits. “It’s an evolving model that is coming about because of the capital issue.”

Triad says it is in discussions with numerous nonprofit hospitals about a variety of arrangements, including joint ventures. Many hospitals “are looking for ways to raise money or access capital to remain competitive,” said James D. Shelton, Triad’s chairman and chief executive. “We’re probably seeing more of this in the last year than in the last five to six years.”

The alternatives to deals with for-profit companies are few. In Louisiana, Slidell Memorial Hospital will be asking voters to approve a new tax that would generate revenue to pay off the \$85 million it needs to borrow for renovations and equipment, according to B. Clement, associate administrator for business development at the hospital. Slidell’s board has consider selling the institution, but would prefer it to remain nonprofit.

A few nonprofit hospitals with solid credit ratings are still borrowing money with relative ease. Early this year, for example, Memorial Sloan-Kettering Cancer Center of New York issued \$450 million bonds. Memorial expects to use some of the money to build new facilities.

But even the nonprofits with finances are being more conservative in how they spend their money. “We’re very conscious of how much debt we have on our books,” Jerry Judd, vice president for treasury services for Catholic Health.

That hospital system plans to spend about \$500 million on capital improvements this year, but that may not cover the necessary investment in its Albuquerque hospitals. \* \* \* Health Services, a for-profit company, expects to take over those details some time later this year.

Some analysts say the tough market environment is providing needed discipline. James C. \* \* \*, a professor of health policy administration at the University California at Berkeley, said many nonprofit hospitals have expanded into areas like managed or physician practices that proved to be disastrous strategies decisions.

"There have been too many adventures." he said.

By Ms. COLLINS (for herself and Ms. LANDRIEU):

S. 100. A bill to expand access to affordable health care and to strengthen the health care safety net and make health care services more available in rural and underserved areas; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Louisiana, Senator LANDRIEU, in introducing the Access to Affordable Health Care Act, a comprehensive, seven-point plan that builds on the strengths of our current public programs and private health care system to make quality, affordable health care available to millions more Americans.

One of my top priorities in the Senate has been to expand access to affordable health care for all Americans. There are still far too many Americans without health insurance or with woefully inadequate coverage. More than 41 million Americans do not have health care coverage, including more than 150,000 in Maine.

Health insurance matters. The simple fact is that people with health insurance are healthier than those who are uninsured. People without health insurance are less likely to seek care when they need it, and to forgo services such as periodic check-ups and preventive services. As a consequence, they are more likely to be hospitalized or require costly medical attention for conditions that could have been prevented or treated at a curable stage. Not only does this put the health of these individuals at greater risk, but it also puts additional pressure on our hospitals and emergency rooms, many of them already financially challenged.

Compared with people who have health coverage, uninsured adults are four times, and uninsured children five times, more likely to use the emergency rooms. The costs of care for these individuals are often absorbed by providers and passed on to the covered population through increased fees and insurance premiums.

Maine is in the midst of a growing health insurance crisis, with insurance premiums rising at alarming rates. Whether I am talking to a self-employed fisherman, the owner of a struggling small businesses, or the human resource manager of a large company, the soaring costs of health insurance is a common concern.

Maine's employers are currently facing premium increases of as much as 40 percent a year. These premium increases have been particularly burdensome for small businesses, the backbone of the Maine economy. Many

small business owners are caught in a cost squeeze: they know that if they pass on the premium increases to their employees, more of them will decline coverage. Yet, these small businesses simply cannot afford to absorb double-digit increases of 20, 30 or 40 percent, year after year.

The problem of rising costs is even more acute for individuals and families who must purchase health insurance on their own. Monthly insurance premiums often exceed a family's mortgage payment. Clearly, we must do more to make health insurance more available and affordable.

The Access to Affordable Health Care Act, which we are introducing today, is a seven-point plan that combines a variety of public and private approaches to make quality health care coverage more affordable and available. The legislation's seven goals are: One, to expand access to affordable health care for small businesses; two, to make health insurance more affordable for individuals and families purchasing coverage on their own; three, to strengthen the health care safety net for those without coverage; four, to expand access to care in rural and underserved areas; five, to increase access to affordable long-term care; six, to promote healthier lifestyles; and seven, to provide more equitable Medicare payments to Maine providers to reduce the Medicare shortfall, which has forced hospitals, physicians and other providers to shift costs onto other payers in the form of higher charges, which, in turn drives up health care premiums.

Let me discuss each of these seven points in more detail.

First, our legislation will help small employers cope with rising health care costs.

Since most Americans get their health insurance through the workplace, it is a common assumption that people without health insurance are unemployed. The fact is, however, that most uninsured Americans are members of families with at least one full-time worker. As many as 82 percent of Americans who do not have health insurance are in a family with a worker.

Uninsured working Americans are most often employees of small businesses. In fact, some 60 percent of uninsured workers are employed by small firms. Smaller firms generally face higher costs for health insurance than larger firms, which makes them less likely to offer coverage. Small businesses want to provide health insurance for their employees, but the cost is often just too high.

The legislation we are introducing today will help small employers cope with rising costs, by providing new tax credits for small businesses to help make health insurance more affordable. It will encourage those small businesses that do not currently offer health insurance to do so and will help employers that do offer insurance to continue coverage for their employees even in the face of rising costs.

Our legislation will also help increase the clout of small businesses in negotiating with insurers. Premiums are generally higher for small businesses because they do not have as much purchasing power as large companies, which limits their ability to bargain for lower rates. They also have higher administrative costs because they have fewer employees among whom to spread the fixed cost of a health benefits plan. Moreover, they are not as able to spread the risks of medical claims over as many employees as large firms.

Our legislation will help address these problems by authorizing federal grants to provide start-up funding to States to assist them with the planning, development, and operation of small employer purchasing cooperatives. These cooperatives will help to reduce health care costs for small employers by allowing them to band together to purchase health insurance jointly. Group purchasing cooperatives have a number of advantages for small employers. For example, the increased numbers of participants in the group help to lower the premium costs for all. Moreover, they decrease the risk of adverse selection and spread the cost of health care over a broader group.

The legislation would also authorize a Small Business Administration grant program for States, local governments and non-profit organizations to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover. These grants would also be used to make employers aware of their current rights under State and Federal laws. While costs are clearly a problem, many small employers are not fully aware of the laws that have already been enacted by both States and the Federal Government to make health insurance more affordable. For example, in one survey, 57 percent of small employers did not know that they could deduct 100 percent of their health insurance premiums as a business expense.

The legislation would also create a new program to encourage innovation by awarding demonstration grants in up to 10 states conducting innovative coverage expansions, such as alternative group purchasing or pooling arrangements, individual or small group market reforms, or subsidies to employers or individuals purchasing coverage. The States have long been laboratories for reform, and they should be encouraged in the development of innovative programs that can serve as models for the nation.

The Access to Affordable Health Care Act will also expand access to affordable health care for individuals and families.

One of the first bills I cosponsored as a Senator was legislation to establish the State Children's Health Insurance Program, S-CHIP, which provides insurance for the children of low-income

parents who cannot afford health insurance, yet make too much money to qualify for Medicaid. This important program has provided affordable health insurance coverage to over four million children nationwide, including over 12,000 who are currently enrolled in the MaineCare program. Even so, nationwide, hundreds of thousands of qualified children have yet to be enrolled in this program, many because their parents simply don't know that they are eligible for the assistance.

Our legislation builds on the success of this program and gives States a number of new tools to increase participation. For example, the bill gives States the option of covering the parents of the children who are enrolled in programs like MaineCare. States could also use funds provided through this program to help eligible working families pay their share of an employer-based health insurance plan. In short, the legislation will help ensure that the entire family receives the health care they need.

The legislation will also allow States to expand coverage to eligible legal immigrants through Medicaid and SCHIP. Maine is one of a number of states that is currently covering eligible legal immigrant pregnant women and children under Medicaid using 100 percent state dollars. Giving States the option of covering these children and families under Medicaid will enable them to receive matching federal funds, and will help relieve the pressure that most a State budgets are currently experiencing due to the economic downturn and rising Medicaid costs.

Many people with serious health problems encounter difficulties in finding a company that is willing to insure them. To address this problem, the Access to Affordable Health Care Act authorizes Federal grants to provide money for states to create high-risk pools through which individuals who have pre-existing health conditions can obtain affordable health insurance.

And finally, to help make health coverage more affordable for low and middle-income individuals and families who do not have employer-provided coverage and who are not eligible for the expanded public programs, our legislation would provide an advanceable, refundable tax credit of up to \$1,000 for individuals earning up to \$30,000 and up to \$3,000 for families earning up to \$60,000. This could provide coverage for up to 6 million Americans who would otherwise be uninsured for one or more months, and will help many more working lower-income families who currently purchase private health insurance with little or no government help.

The Access to Affordable Health Insurance Act will also help to strengthen our nation's health care safety net by doubling funding over five years for the Consolidated Health Centers program, which includes community, migrant, public housing and homeless

health centers. These centers, which operate in underserved rural and urban communities, provide critical primary care services to millions of Americans regardless of their ability to pay. About 20 percent of the patients treated at Maine's community health centers have no insurance coverage and many more have inadequate coverage, so these centers are a critical part of our Nation's health care safety net.

The problem of access to affordable health care services is not limited to the uninsured, but it also shared by many Americans living in rural and underserved areas where there is a serious shortage of health care providers. The Access to Affordable Health Care Act therefore includes a number of provisions to strengthen the National Health Service Corps, which supports doctors, dentists, and other clinicians who serve in rural and inner city areas.

For example, taxing students adversely affects their financial incentive to participate in the National Health Services Corps and provide health care services in underserved communities. The tax bill passed by the last Congress provided a tax deduction for National Health Service Corps scholarship recipients to deduct all tuition, fees and related educational expenses from their income taxes. The deduction did not extend to loan repayment recipients however, so loan repayment amounts are still taxed as income. Participants in the loan repayment program are actually given extra payment amounts to help them cover their tax liability which, frankly, is a little ridiculous. It makes much more sense to simply exempt them from taxation in the first place.

In addition, the legislation will allow National Health Service Corps participants to fulfill their commitment on a part-time basis. Current law requires all National Health Service Corps participants to serve full time. Many rural communities, however, simply do not have enough volume to support a full-time health care practitioner. Moreover, some sites may not need a particular type of provider, for example, a dentist, on a full-time basis. Some practitioners may also find part-time service more attractive, which, in turn, could improve recruitment and retention. Our bill will therefore give the program additional flexibility to meet community needs.

Long-term care is the major catastrophic health care expense faced by older Americans today, and these costs will only increase with the aging of the baby boomers. Most Americans mistakenly believe that Medicare or their private health insurance policies will cover the costs of long-term care should they develop a chronic illness or cognitive impairment like Alzheimer's Disease. Unfortunately, far too many do not discover that they do not have coverage until they are confronted with the difficult decision of placing a much-loved parent or spouse in long-term care and facing the shocking real-

ization that they will have to cover the costs themselves.

The Access to Affordable Health Care Act will provide a tax credit for long-term care expenses of up to \$3,000 to provide some help to those families struggling to provide long-term care to a loved one. It will also encourage more Americans to plan for their future long-term care needs by providing a tax deduction to help them purchase private long-term care insurance.

Health insurance alone is not going to ensure good health. As noted author and physician Dr. Michael Crichton has observed, "the future of medicine lies not in treating illness, but preventing it." Many of our most serious health problems are directly related to unhealthy behaviors, smoking, lack of regular exercise and poor diet. These three major risk factors alone have made Maine the state with the fourth highest death rate due to four largely preventable diseases: cardiovascular disease, cancer, chronic lung disease and diabetes. These four chronic diseases are responsible for 70 percent of the health care problems in Maine.

Our bill therefore contains a number of provisions designed to promote health lifestyles. An ever-expanding body of evidence shows that these kinds of investments in health promotion and prevention offer returns not only in reduced health care bills, but in longer life and increased productivity. The legislation will provide grants to States to assist small businesses wishing to establish "worksites wellness" programs for their employees. It would also authorize a grant program to support new and existing "community partnerships," such as the Healthy Community Coalition in Franklin County, to promote healthy lifestyles among hospitals, employers, schools and community organizations. And, it would provide funds for States to establish or expand comprehensive school health education, including, for example, physical education programs that promote lifelong physical activity, healthy food service selections and programs that promote a healthy and safe school environment.

And finally, the Access to Affordable Health Care Act would promote equity in Medicare payments and help to ensure that the Medicare system rewards rather than punishes states like Maine that deliver high-quality, cost effective Medicare services to our elderly and disabled citizens.

According to a recent study in the Journal of the American Medical Association, Maine ranks third in the nation when it comes to the quality of care delivered to our Medicare beneficiaries. Yet we are 11th from the bottom when it comes to per-beneficiary Medicare spending.

The fact is that Maine's Medicare dollars are being used to subsidize higher reimbursements in other parts of the country. This simply is not fair. Medicare's reimbursement systems have historically tended to favor urban

areas and failed to take the special needs of rural states into account. Ironically, Maine's low payment rates are also the result of its long history of providing high-quality, cost-effective care. In the early 1980s, Maine's lower than average costs were used to justify lower payment rates. Since then, Medicare's payment policies have only served to widen the gap between low and high-cost states.

As a consequence, Maine's hospitals, physicians and other providers have experienced a serious Medicare shortfall, which has forced them to shift costs on to other payers in the form of higher charges. The Medicare shortfall is one of the reasons that Maine has among the highest health insurance premiums in the nation. The provisions in the Access to Affordable Health Care Act provide a complement to legislation that I introduced in the last Congress with Senator RUSS FEINGOLD to promote greater fairness in Medicare payments to physicians and other health professionals by eliminating outdated geographic adjustment factors that discriminate against rural areas.

The Access to Affordable Health Care Act outlines a blueprint for reform based upon principles upon which I believe a bipartisan majority in Congress could agree. The plan takes significant strides toward the goal of universal health care coverage by bringing millions more Americans into the insurance system, by strengthening the health care safety net, and by addressing the inequities in the Medicare system.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 101. A bill to authorize salary adjustments for Justices and judges of the United States for fiscal year 2003; to the Committee on Governmental Affairs.

Mr. HATCH. Mr. President, on this first day of the 108th Congress, I rise to address the serious matter of pay inequity in the Federal judiciary.

As things stand now, nearly every Federal employee will receive a cost of living adjustment during 2003, every employee, that is, except Federal judges. This is because of a legislative prescription that requires Congress to authorize raises in the salaries of Federal judges. Although this COLA of roughly three percent may seem small and inconsequential, it makes a significant difference in light of the fact that Federal judges earn far less than many, it not most, of their counterparts in the private sector.

In this 2002 year-end report, Supreme Court Chief Justice William Rehnquist highlighted his concern that salaries of Federal judges have not kept pace with those of lawyers in private firms and in business. He observed, "Inadequate compensation seriously compromises the judicial independence fostered by life tenure. That low salaries might force judges to return to the private sector rather than stay on the bench

risks affecting judicial performance—instead of serving for life, those judges would serve the terms their finances would allow, and they would worry about what awaits them when they return to the private sector." The Chief Justice lamented, "Unless the 108th Congress acts, judges will not even receive the cost-of-living adjustment that nearly every other federal employee will receive during 2003." He concluded by urging Congress and the President to "take up this issue early in the new year."

Today, Senator LEAHY and I are introducing a bill that will allow Federal judges to receive the COLA that other Federal employees are already slated to receive this year. Although the larger issue of minimizing the gap between Federal judicial salaries and private sector salaries still remains, this small step will resolve the salary inequity between Federal judges and other Federal employees. I urge my colleagues to join Senator LEAHY and me in supporting this bipartisan measure.

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

S. 101

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

**SECTION 1. AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES.**

Pursuant to section 140 of Public Law 97-92, Justices and judges of the United States are authorized during fiscal year 2003 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

By Mr. NICKLES:

S. 103. A bill for the relief of Lindita Idrizi Heath; to the Committee on the Judiciary.

Mr. NICKLES. 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. 103

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR LINDITA IDRIZI HEATH.**

(a) IN GENERAL.—Notwithstanding section 101(b)(1) and subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Lindita Idrizi Heath shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Lindita Idrizi Heath enters the United States before the filing deadline specified in subsection (c), Lindita Idrizi Heath shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of

an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Lindita Idrizi Heath, the Secretary of State shall instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Lindita Idrizi Heath under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Lindita Idrizi Heath under section 202(e) of that Act.

**SEC. 2. ELIGIBILITY FOR CITIZENSHIP.**

For purposes of section 320 of the Immigration and Nationality Act (8 U.S.C. 1431; relating to the automatic acquisition of citizenship by certain children born outside the United States), Lindita Idrizi Heath shall be considered to have satisfied the requirements applicable to adopted children under section 101(b)(1) of that Act (8 U.S.C. 1101(b)(1)).

**SEC. 3. LIMITATION.**

No natural parent, brother, or sister, if any, of Lindita Idrizi Heath shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

By Mr. HOLLINGS (for himself, Mr. BAYH, Mr. BIDEN, Mrs. BOXER, Mr. BREAUX, Mr. BURNS, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Mr. MILLER, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, and Mr. STEVENS):

S. 104. A bill to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today to introduce the National Defense Rail Act. This legislation is of vital importance to rail transportation, it provides funding for railroad security, Amtrak, investment in both freight and passenger rail, and the development of high speed corridors throughout the country.

We have modified the security provision to reflect the creation of the Department of Homeland Security, otherwise, this is the same bill that the Commerce Committee reported last April by a vote of 20 to 3. I am joined by twenty five of my colleagues in introducing this bipartisan legislation. It is critical that the Senate take this bill up, and pass it, to ensure that our railroads are secure and we have adequate investment in both Amtrak and the development of high speed rail corridors to move us into the future.

By Ms. STABENOW (for herself, Mr. DASCHLE, Mrs. BOXER, Mr. LEVIN, Mr. LEAHY, Ms.

LANDRIEU, Mr. DODD, Mr. DAYTON, Mr. SARBANES, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mr. LAUTENBERG):

S. 105. A bill to repeal certain provisions of the Homeland Security Act (Public Law 107-296) relating to liability with respect to certain vaccines; to the Committee on Health, Education, Labor, and Pensions.

Ms. STABENOW. Mr. President, today I rise to keep a promise I made in November. On this, the very first day of the 108th Congress, I am introducing a bill that will remove the controversial vaccine component liability provisions from the Homeland Security bill.

I am joined by a long list of original cosponsors: Senators DASCHLE, BOXER, LEVIN, LEAHY, LANDRIEU, DODD, DAYTON, SARBANES, DORGAN, DURBIN, LAUTENBERG, and FEINSTEIN. The Homeland Security bill, signed into law by President Bush in December, contains a provision that protects that financial security of pharmaceutical companies, not the homeland security of our Nation.

The newly minted law contains a provision that expands the liability protections that currently exist for vaccines to include other vaccine components, such as vaccine preservatives like Thimerosal. This provision was included in the bill, at the last minute, with no debate and no committee hearings

Thimerosal; was the subject of several class action lawsuits based on increasing research connecting this preservative, which contains mercury, to the rising incidence of autism in children.

Now that the vaccine component provision has been signed into law, all of these cases are expected to be dismissed. I urge my colleagues to join me and to remove the component provision from the law before it is too late. If these cases are dismissed with prejudice, then many families will have nowhere to go to see justice for the harm their children suffered.

While the research is not conclusive on the connection between Thimerosal and autism, was this narrowly written, unrelated provision in the Homeland Security law the way to respond to these concerns? Don't these children and their families merit the full protection under the law? Certainly, they deserve their day in court. The Homeland Security provision includes vaccine components in the National Vaccine Injury Compensation Program, VICP, in which awards are limited to money available through its special trust fund.

In 1988, Congress enacted the National Vaccine Injury Compensation Program as a no-fault alternative to the tort system for resolving claims resulting from adverse reactions to mandated childhood vaccines. This Federal no fault system is designed to compensate individuals, or families of individuals, who have been injured by childhood vaccines.

Damages are awarded out of a trust fund that is financed by excise taxes of 75 cents per dose imposed on each vaccine covered under the program. There is a three year statute of limitations on bringing cases to the VICP. It is very likely that many families who joined the Thimerosal class action suits, now under the treat of dismissal, have exceeded the three year time limit. Therefore, these families will have no recourse whatsoever.

An issue as serious as revising the Vaccine Injury Compensation Program certainly merits due Congressional process. Amending this program by including a provision in the Homeland Security bill was inappropriate and this serious mistake should be corrected. I urge my colleagues to join me in cosponsoring this bill and working to see it signed into law as soon as possible. We must remove the vaccine component liability provisions from the Homeland Security law.

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. 105

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

**SECTION 1. REPEAL OF CERTAIN VACCINE LIABILITY PROVISIONS.**

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(1) by repealing sections 1714, 1715, 1716, and 1717; and

(2) in the table of contents, by striking the items relating to sections 1714, 1715, 1716, and 1717.

(b) EFFECTIVE DATE.—This section shall take effect as though enacted as part of the Homeland Security Act of 2002 (Public Law 107-296).

Mr. DORGAN. Mr. President, I rise to speak as a cosponsor of S. 105. This bill repeals provisions of the Homeland Security Act offering certain liability protections to pharmaceutical companies.

Mr. President, these provisions protect the manufacturers of a vaccine additive called thimerosal. This additive is a mercury-based vaccine component. It was used extensively in the past, until some parents began to claim that it caused autism in their children.

Those parents are now seeking their day in court against the manufacturers of the drug. And the effect of the provisions in the Homeland Security Bill is to steer claims away from the courts and to the Vaccine Injury Compensation Program.

I do not know whether the scientific evidence will ultimately support the parents' claim that their children's autism was caused by thimerosal. Right now, the research on the link between thimerosal and autism is inconclusive. But I do know that the manner in which these particular provisions were added to the Homeland Security law is just plain wrong.

These provisions were at last-minute addition to the version of the Home-

land Security Act that was passed in the House of Representatives. And like many things done at the last minute, without the benefit of thoughtful debate, these provisions were poorly conceived.

The Chairman of the House Committee on Government Reform, DAN BURTON, expressed his concern about these provisions in a letter to his colleagues. He noted that the scientific debate about thimerosal was unresolved. And he argued that some parents of autistic children might lose all legal recourse if the provisions passed, because the Vaccine Injury Compensation Program has a narrow 3-year statute of limitations, and some parents may not have filed petitions on time. Chairman BURTON pleaded with his colleagues not to "stampede" into cutting of the legal rights of these children "without hearings and a full public debate."

Despite these pleadings, the provision remained in the House version of the Homeland Security Act.

When the bill came to the U.S. Senate for consideration, many Members—on both sides of the aisle—expressed concern at the way that the provisions had been introduced. They argued that the provisions did not belong in the Homeland Security Act, and should be considered at some later time.

Senators DASCHLE and LIEBERMAN moved to strike these provisions from the Homeland Security legislation. In the hours before the vote, it appeared that the thimerosal language would indeed be struck—until the Republican leadership reportedly gave some Members assurances that the provisions would be struck in the next Congress. Unfortunately, enough Members accepted these assurances that the thimerosal provisions remained in the Homeland Security Act.

Once the bill was signed into law, and the public became increasingly aware of what had happened, an interesting thing happened: No one would admit authorship of the provisions. The House majority leader's office initially claimed that it had been the White House's idea.

The White House said that it had nothing to do with it. And the companies that were the beneficiaries of the provisions said that they were as surprised as anybody.

So the public was left to ask: Who did this?

This is not the way that Congress should legislate. What happened in this instance is deplorable, and it undermines public confidence in our legislative process.

If there are good, legitimate reasons to give liability protection to the makers of thimerosal, let us have a thoughtful debate about them. Let us have hearings. I understand that the new majority leader, Senator FRIST, has been working on legislation for some time in this regard. Senator FRIST now controls the floor, and can ensure a prompt, thoughtful debate

about reforms to the Vaccine Injury Compensation Program.

In the meantime, let us strip the thimerosal provisions currently in the Homeland Security Act.

I yield the floor.

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

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise to introduce the Crime Victims' Rights Amendment.

The scales of justice are imbalanced. The U.S. Constitution, mainly through amendments, grants those accused of crime many constitutional rights, such as a speedy trial, a jury trial, counsel, the right against self-incrimination, the right to be free from unreasonable searches and seizures, the right to subpoena witnesses, the right to confront witnesses, and the right to due process under the law.

The Constitution, however, guarantees no rights to crime victims. For example, victims have no right to be present, no right to be informed of hearings, no right to be heard at sentencing or at a parole hearing, no right to insist on reasonable conditions of release to protect the victim, no right to restitution, no right to challenge unending delays in the disposition of their case, and no right to be told if they might be in danger from release or escape of their attacker. This lack of rights for crime victims has caused many victims and their families to suffer twice, once at the hands of the criminal, and again at the hands of a justice system that fails to protect them. The Crime Victims' Rights Amendment would bring balance to the judicial system by giving victims of violent crime the rights to be informed, present, and heard at critical stages throughout their ordeal.

The amendment gives victims of violent crime the right: to reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused; not to be excluded from such public proceeding; reasonably to be heard at public release, plea, sentencing, reprieve, and pardon proceedings; and to adjudicative decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender.

These rights have been at the core of the amendment since 1996, when Senator FEINSTEIN and I first introduced the Crime Victims' Rights Amendment. The amendment is the product of extended discussions with the White House, the Department of Justice, Representative Steve Chabot, Senators Hatch and Biden, law enforcement officials, major victims' rights groups, and such diverse scholars as Professor Larry Tribe and then-Professor Paul

Cassell. The current version is similar to the version in the 107th Congress. As President Bush stated when announcing his support for the language of the amendment, the amendment was "written with care, and strikes a proper balance." <http://www.whitehouse.gov/news/releases/2002/04/20020416-1.html>. One of the nation's leading constitutional scholars, Harvard Law Professor Laurence Tribe, who is on the opposite end of the ideological spectrum from President Bush, concurred. Professor Tribe praised the Amendment's "brevity and clarity" and commented, "That you achieved such conciseness while fully protecting defendants' rights and accommodating the legitimate concerns that have been voiced about prosecutorial power and presidential authority is no mean feat. . . . I think you have done a splendid job at distilling the prior versions of the Victims' Rights Amendment into a form that would be worthy of a constitutional amendment." Letter of April 15, 2002.

If reform is to be meaningful, it must be in the U.S. Constitution. Since 1982, when the need for a constitutional amendment was first recognized by President Reagan's Task Force on Victims of Crime, 32 states have passed similar measures, by an average popular vote of about 80 percent. These state measures have helped protect crime victims; but they are inadequate for two reasons. First, each amendment is different, and not all States have provided protection to victims; a Federal amendment would establish a basic floor of crime victims' rights for all Americans, just as the federal Constitution provides for the accused. Second, statutory and state constitutional provisions are always subservient to the federal constitution; so, in cases of conflict, the defendants' rights, which are already in the U.S. Constitution, will always prevail. The Crime Victims' Rights Amendment would correct this imbalance.

It is important to note that the number one recommendation in a 400 page report by the Department of Justice on victims rights and services was that "the U.S. Constitution should be amended to guarantee fundamental rights for victims of crime." U.S. Department of Justice, Office for Victims of Crime, New Directions from the Field: Victims' Rights and Services for the 21st Century 9, 1998. The report continued: "A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the state and federal levels." *Id.* at 10. Further: "Granting victims of crime the ability to participate in the justice system is exactly the type of participatory right the Constitution is designed to protect and has been amended to permanently ensure. Such rights include the right to vote on an equal basis and the right to be heard

when the government deprives one of life, liberty, or property." *Id.*

Some may say, "I'm all for victims' rights but they don't need to be in the U.S. Constitution. The Constitution is too hard to change." But the history of our country teaches us that constitutional protections are needed to protect the basic rights of the people. Our criminal justice system needs the kind of fundamental reform that can only be accomplished through changes in our fundamental law, the Constitution. Attempts to establish rights by Federal or State statute, or even State constitutional amendment, have proven inadequate, after more than twenty years of trying. Then-Attorney General Reno has confirmed the point, noting that, "unless the Constitution is amended to ensure basic rights to crime victims, we will never correct the existing imbalance in this country between defendants' constitutional rights and the haphazard patchwork of victims' rights." Senate Judiciary Committee Hearing, April 16, 1997, statement of Attorney General Janet Reno, at 41.

On behalf of the Department of Justice, Ray Fisher, then Associate Attorney General, now a judge on the Ninth Circuit Court of Appeals, testified that "the state legislative route to change has proven less than adequate in according victims their rights. Rather than form a minimum baseline of protections, the state provisions have produced a hodgepodge of rights that vary from jurisdiction to jurisdiction. Rights that are guaranteed by the Constitution will receive greater recognition and respect, and will provide a national baseline." Senate Judiciary Committee Hearing, April 28, 1998, statement of Associate Attorney General Ray Fisher, at 9.

A number of legal commentators have reached similar conclusions. Harvard Professor of Law Laurence Tribe has explained that the existing statutes and state amendments "are likely, as experience to date sadly shows, to provide too little real protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia, or any mention of an accused's rights regardless of whether those rights are genuinely threatened." Senate Judiciary Committee Hearing, March 24, 1999, statement of Laurence Tribe, at 6. He also stated, "there appears to be a considerable body of evidence showing that, even where statutory or regulatory or judge-made rules exist to protect the participatory rights of victims, such rights often tend to be honored in the breach . . ." *Id.* at 7. Indeed, according to a report by the National Institute of Justice, even in states that gave "strong protection" to victims rights, fewer than 60 percent of the victims were notified of the sentencing hearing and fewer than 40 percent were notified of the pretrial release of the defendant. National Institute of Justice, Research

in Brief, "The Rights of Crime Victims—Does Legal Protection Make a Difference?" at 4 (Dec. 1998).

If crime victims are to have meaningful rights, those rights must be in the U.S. Constitution. As President Bush has stated, "The protection of victims' rights is one of those rare instances when amending the Constitution is the right thing to do. And . . . the Crime Victims' Rights Amendment is the right way to do it." <http://www.whitehouse.gov/news/releases/2002/04/20020416-1.html>.

The Crime Victims' Rights Amendment has strong bipartisan support in the House and Senate. Senator FEINSTEIN is the lead Democratic sponsor. I would like to thank her for her tireless efforts on behalf of crime victims and for her hard and very valuable work on the language. Also, a bipartisan group of 39 State Attorneys General has signed a letter expressing their "strong and unequivocal support" for an amendment. In January 1997, the National Governors' Association voted in favor of an amendment. In 1996 and 2000, both the Republican and Democratic Party Platforms called for a crime victims' rights amendment. Additionally, the amendment is supported by the International Association of Chiefs of Police and major national victims' rights groups, including Parents of Murdered Children, the National Organization for Victim Assistance, Mothers Against Drunk Driving, MADD, the Maryland Crime Victims' Resource Center, Arizona Voice for Crime Victims, Crime Victims United, and, Memory of Victims Everywhere.

The amendment has received strong support around the country. As I mentioned earlier, 32 states have passed similar measures—by an average popular vote of almost 80 percent.

Since we first introduced the amendment in 1996, Nila Lynn has been murdered in my home State of Arizona. Nila and her husband Duane were three months short of their 50th wedding anniversary. Nila was shot in the back by Richard Glassel and died in Duane's arms. Despite the fact that Duane had a State constitutional right to be heard at Glassel's sentencing and despite the fact that Glassel was afforded the right to make a sentencing recommendation to the jury, Duane's voice was silenced because he had no U.S. Constitutional right to make a similar sentencing recommendation.

For far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 1

*Resolved by the Senate and House of Representatives of the United States of America in*

*Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:*

"ARTICLE—

"SECTION 1. The rights of victims of violent crime, being capable of protection without denying the constitutional rights of those accused of victimizing them, are hereby established and shall not be denied by any State or the United States and may be restricted only as provided in this article.

"SECTION 2. A victim of violent crime shall have the right to reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused; the rights not to be excluded from such public proceeding and reasonably to be heard at public release, plea, sentencing, reprove, and pardon proceedings; and the right to adjudicative decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender. These rights shall not be restricted except when and to the degree dictated by a substantial interest in public safety or the administration of criminal justice, or by compelling necessity.

"SECTION 3. Nothing in this article shall be construed to provide grounds for a new trial or to authorize any claim for damages. Only the victim or the victim's lawful representative may assert the rights established by this article, and no person accused of the crime may obtain any form of relief hereunder.

"SECTION 4. Congress shall have power to enforce by appropriate legislation the provisions of this article. Nothing in this article shall affect the President's authority to grant reprieves or pardons.

"SECTION 5. This article shall be inoperative unless it has been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission to the States by the Congress. This article shall take effect on the 180th day after the date of its ratification."

Mrs. FEINSTEIN. Mr. President, I join my good friend, Senator KYL, in introducing S.J. Res. 1, the Victims' Rights Amendment.

Two years ago, the Senate debated a proposed constitutional amendment drafted by Senator KYL and me to protect the rights of victims of violent crime. The amendment had been reported out of the Senate Judiciary Committee on a strong bipartisan vote of 12 to 5. After 82 Senators voted to proceed to consideration of the amendment, there was a vigorous debate on the floor of the Senate. Some Senators raised concerns about the amendment, saying that it was too long or that it read too much like a statute.

Ultimately, in the face of a threatened filibuster, Senator KYL and I decided to withdraw the amendment. We then hunkered down with constitutional experts, such as Professor Larry Tribe of Harvard Law School, to see if we could revise the amendment to meet Senators' concerns. We also worked with constitutional experts at the Department of Justice and the White House, and we came up with a new and improved draft of the amendment. This new amendment provides many of the same rights as the old amendment.

Specifically, the amendment would give crime victims the rights to be notified, present, and heard at critical stages throughout their case. It would ensure that their views are considered and they are treated fairly. It would ensure that their interest in a speedy resolution of the case, safety, and claims for restitution are not ignored. And it would do so in a way that would not abridge the rights of defendants or offenders, or otherwise disrupt the delicate balance of our Constitution.

We had a hearing in the Constitution Subcommittee. Unfortunately, the Judiciary Committee did not act on the amendment. There are many reasons why we need a constitutional amendment.

First, a constitutional amendment will balance the scales of justice. Currently, while criminal defendants have almost two dozen separate constitutional rights, fifteen of them provided by amendments to the U.S. Constitution, there is not a single word in the Constitution about crime victims. These rights trump the statutory and State constitutional rights of crime victims because the U.S. Constitution is the supreme law of the land. To level the playing field, crime victims need rights in the U.S. Constitution. In the event of a conflict between a victim's and a defendant's rights, the court will be able to balance those rights and determine which party has the most compelling argument.

Second, a constitutional amendment will fix the patchwork of victims' rights laws. Eighteen States lack state constitutional victim's rights amendment, and the 32 existing State victims' rights amendments differ from each other. Also, virtually every State has statutory protections for victims, but these vary considerably across the country. Only a Federal constitutional amendment can ensure a uniform national floor for victims' rights.

Third, a constitutional amendment will restore rights that existed when the Constitution was written. It is a little known fact that at the time the Constitution was drafted, it was standard practice for victims, not public prosecutors, to prosecute criminal cases. Because victims were parties to most criminal cases, they enjoyed the basic rights to notice, to be present, and be heard. Hence, it is not surprising that the Constitution does not mention victims.

Now, of course, it is extremely rare for a victim to undertake a criminal prosecution. Thus, victims have none of the basic procedural rights they used to enjoy. Victims should receive some of the modest notice and participation rights they enjoyed at the time that the Constitution was drafted.

Fourth, a constitutional amendment is necessary because mere State law is insufficient. State victims' rights laws lacking the force of Federal constitutional law are often given short shrift. A Justice Department-sponsored study and other studies have found that, even

in States with strong legal protections for victims' rights, many victims are denied those rights. The studies have also found that statutes are insufficient to guarantee victims' rights. Only a Federal constitutional amendment can ensure that crime victims receive the rights they are due.

Fifth, a constitutional amendment is necessary because Federal statutory law is insufficient. The leading statutory alternative to the Victims' Rights Amendment would only directly cover certain violent crimes prosecuted in Federal court. Thus, it would slight more than 99 percent of victims of violent crime. We should acknowledge that Federal statutes have been tried and found wanting. It is time for us to amend the U.S. Constitution.

The Oklahoma City bombing case offers another reason why we need a constitutional amendment. This case shows how even the strongest Federal statute is too weak to protect victims in the face of a defendant's constitutional rights. In that case, two Federal victims' rights statutes were not enough to give victims of the bombing a clear right to watch the trial and still testify at the sentencing, even though one of the statutes was passed with the specific purpose of allowing the victims to do just that.

Let me quote from the first of these statutes: the Victims of Crime Bill of Rights, passed in 1990. That Bill of Rights provides in part that:

A crime victim has the following rights: The right to be present at all public court proceedings related to the offense, unless that court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

That statute further states that Federal Government officers and employees "engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the[se] rights."

The law also provides that "[t]his section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the[se] rights."

In spite of the law, the judge in the Oklahoma City bombing case ruled, without any request from Timothy McVeigh's attorneys, that no victim who saw any portion of the case could testify about the bombing's impact at a possible sentencing hearing:

The Justice Department asked the judge to exempt victims who would not be "factual witnesses at trial" but who might testify at a sentencing hearing about the impact of the bombing on their lives. The judge denied the motion. The victims were then given until the lunchbreak to decide whether to watch the proceedings or remain eligible to testify at a sentencing hearing. In the hour that they had, some of the victims opted to watch the proceedings; other decided to leave to remain eligible to testify at the sentencing hearing.

Subsequently, the Justice Department asked the court to reconsider its order in light of the 1990 Victims' Bill of Rights. Bombing victims then filed their own motion to raise their rights under the Victims' Bill of Rights. The court denied both motions. With regard to the victims' motion, the judge held that the victims lacked standing. The judge stated that the victims would not be able to separate the "experience of trial" from the "experience of loss from the conduct in question." The judge also alluded to concerns about the defendants' constitutional rights, the common law, and rules of evidence.

The victims and DOJ separately appealed to the Court of Appeals for the Tenth Circuit. That court ruled that the victims lacked standing under Article III of the Constitution because they had no "legally protected interest" to be present at trial and thus had suffered no "injury in fact" from their exclusion. The victims and DOJ then asked the entire Tenth Circuit to review that decision. Forty-nine members of Congress, all six attorneys general in the Tenth Circuit, and many of the leading crime victims' organizations filed briefs in support of the victims. All to no avail.

The Victims' Clarification Act of 1997 when then introduced in Congress. That act provided that watching a trial does not constitute grounds for denying victims the chance to provide an impact statement. This bill passed the House 414 to 13 and the Senate by unanimous consent. Two days later, President Clinton signed into law, explaining that "when someone is a victim, he or she should be at the center of the criminal justice process, not on the outside looking in."

The victims then filed a motion asserting a right to attend the trial under the new law. However, the judge declined to apply the law as written. He concluded that "any motions raising constitutional questions about this legislation would be premature and would present questions issues that are not now ripe for decision." Moreover, he held that it could address issues of possible prejudicial impact from attending the trial by interviewing the witnesses after the trial.

The judge also refused to grant the victims a hearing on the application of the new law, concluding that his ruling rendered their request "moot." The victims then faced a painful decision: watch the trial or preserve their right to testify at the sentencing hearing. Many victims gave up their right to watch the trial as a result.

A constitutional amendment would help ensure that victims of a domestic terrorist attack such as the Oklahoma City bombing have standing and that their arguments for a right to be present are not dismissed as "unripe." A constitutional amendment would give victims of violent crime an unambiguous right to watch a trial and still testify at sentencing.

There is strong and wide support for a constitutional amendment. I am

pleased that President Bush and Attorney General Ashcroft have endorsed the amendment. As the President put it last year, "The Feinstein-Kyl amendment was written with care, and strikes a proper balance. Our legal system properly protects the rights of the accused in the Constitution, but it does not provide similar protection for the rights of victims, and that must change. The protection of victims' rights is one of those rare instances when amending the Constitution is the right thing to do. And the Feinstein-Kyl crime victims' rights amendment is the right way to do it."

I greatly appreciate their support. And I am also pleased that both former President Clinton and former Vice President Gore have all expressed support for a constitutional amendment on victim's right. Moreover, in the last Congress, the Victims' Rights Amendment was cosponsored by a bipartisan group of 28 Senators. I have spoken to many of my colleagues about the amendment we introduce today and I am hopeful that it will receive even more support in this Congress. In addition I would vote the following:

Both the Democratic and Republican Party Platforms call for a victims' rights amendment. Governors in 49 out of 50 States have called for an amendment. Four former U.S. Attorneys General, including Attorney General Reno, support an amendment. Attorney General Ashcroft support an amendment. Forty State attorneys general support an amendment.

Major national victims' rights groups—including Parents of Murdered Children, Mothers Against Drunk Driving, MADD, and the National Organization for Victim Assistance, support the amendment. Many law enforcement groups, including the International Association of Chiefs of Police, the Nation Troops' Coalition, the International Union of Police Associations AFL-CIO, the Federal Law Enforcement Officers Association, and the California District Attorneys Association support an amendment. Constitutional scholars, such as Harvard Law School Professor Larry Tribe, support an amendment.

The amendment has received strong support around the country. Thirty-two States have passed similar measures—by an average popular vote of almost 80 percent.

I am delighted to join my good friend Senator JON KYL in sponsoring the victims' rights amendment, and I look forward to its adoption by this Congress.

I ask unanimous consent that a copy of a letter dated April 15, 2002 from Harvard Law School Professor Larry Tribe be printed in the RECORD.

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

HARVARD UNIVERSITY LAW SCHOOL,  
Cambridge, MA, April 15, 2002.

Hon. DIANNE FEINSTEIN,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

Hon. JON KYL,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATORS FEINSTEIN AND KYL: I think that you have done a splendid job at distilling the prior versions of the Victims' Rights Amendment into a form that would be worthy of a constitutional amendment—an amendment to our most fundamental legal charter, which I agree ought never to be altered lightly. I will not repeat here the many reasons I have set forth in the past for believing that, despite the skepticism I have detected in some quarters both on the left and on the right, the time is past due for recognizing that the victims of violent crime, as well as those closest to victims who have succumbed to such violence, have a fundamental right to be considered, and heard when appropriate, in decisions and proceedings that profoundly affect their lives.

How best to protect that right without compromising either the fundamental rights of the accused or the important prerogatives of the prosecution is not always a simple matter, but I think your final working draft of April 13, 2002, resolves that problem in a thoughtful and sensitive way, improving in a number of respects on the earlier drafts that I have seen. Among other things, the greater brevity and clarity of this version makes it more fitting for inclusion in our basic law. That you achieved such conciseness while fully protecting defendants' rights and accommodating the legitimate concerns that have been voiced about prosecutorial power and presidential authority is no mean feat. I happily congratulate you both on attaining it.

A case argued two weeks ago in the Supreme Judicial Court of Massachusetts, in which a woman was brutally raped a decade and a half ago but in which the man who was convicted and sentenced to a long prison term has yet to serve a single day of that sentence, helps make the point that the legal system does not do well by victims even in the many states that, on paper, are committed to the protection of victims' rights. Despite the Massachusetts Victims' Bill of Rights, solemnly enacted by the legislature to include an explicit right on the part of the victim to a "prompt disposition" of the case in which he or she was victimized, the Massachusetts Attorney General, to who has yet to take the simple step of seeking the incarceration of the convicted criminal pending his on-again, off-again motion for a new trial—a motion that has not been ruled on during the 15 years that this convicted rapist has been on the streets—has taken the position that the victim of the rape does not even have legal standing to appear in the courts of this state, through counsel, to challenge the state's astonishing failure to put her rapist in prison to begin serving the term to which he was sentenced so long ago.

If this remarkable failure of justice represented a wild aberration, perpetrated by a state that had not incorporated the rights of victims into its laws, then it would prove little, standing alone, about the need to write into the United States Constitution a national commitment to the rights of victims. Sadly, however, the failure of justice of which I write here is far from aberrant. It represents but the visible tip of an enormous iceberg of indifference toward those whose rights ought finally to be given formal federal recognition.

I am grateful to you for fighting this fight. I only hope that many others can soon be

stirred to join you in a cause that deserves the most widespread bipartisan support.

Sincerely yours,  
LAURENCE H. TRIBE.

By Mr. CRAIG:

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget and protect Social Security surpluses; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, today I am reintroducing a Balanced Budget Amendment to the Constitution of the United States. When we were in deficit and when we were in surplus, I have always said, if we could adopt one fundamental reform to the way the Federal Government does business, this is it. The fiscal events of the last couple years have again demonstrated the need for this long-term, fundamental, permanent reform.

For many Americans, one of the signs of our deep respect for the Constitution is our acknowledgment that, in exceptional cases, a problem rises to such a level that it can be adequately addressed only in the Constitution, by way of a Constitutional amendment.

For four years in a row, a modern record, the first time since the 1920s, Congress balanced the Federal budget. The first Republican Congresses in 40 years made balancing the budget their top priority, and did what was necessary, working on a bipartisan basis, to run the kind of surpluses we need to pay down the national debt and safeguard the future of Social Security.

Then events intervened.

A return to budget deficits was caused by an economic recession and a war begun by a terrorist attack. Even before taking office, President Bush correctly foresaw the coming recession and prescribed the right medicine, the bipartisan Tax Relief Act of 2001, that has bolstered the economy and prevented a far worse recession.

Sadly, at least on the budget front, the Senate did not rise to the challenge. Last year, many of us were deeply disappointed by the Senate's failure to pass a budget resolution for the first time in the history of the Budget Act. That failure only made the need for fiscal discipline all the more evident, as we saw a return to deepening deficit spending.

The return to deficit spending can and should be a temporary phenomenon. We will rebound from the recent economic slowdown. And we must do whatever it takes to win the war, that's a matter of survival and of protecting the safety and security of the American people. Beyond that, we must keep all other Federal spending under control, so that we return, as soon as possible, to balancing the budget.

In other words, the return to deficit spending will be a temporary problem only if we make a permanent commitment to the moral imperative of fiscal responsibility.

We always did, and always will, need a Balanced Budget Amendment to our Constitution.

Even in the heady days of budget surpluses, I always maintained the only way to guarantee that the Federal Government would stay fiscally responsible was to add a Balanced Budget Amendment to the Constitution.

Before we balanced the budget in 1998, the government was deficit spending for 28 years in a row and for 59 out of 67 years. The basic law of politics, to just say "yes", was not repealed in 1998, but only restrained some, when we came together and briefly faced up to the grave threat to the future posed by decades of debt.

Now, the government is back to borrowing. And for some, a return to deficit spending seems to have been liberating, as the demands for new spending only seem to be multiplying again.

That is why, today, I am again introducing a Balanced Budget Amendment to the Constitution and calling upon my colleagues to send it to the states for ratification. The amendment I introduce today is the same one I cosponsored last year, which would not count the Social Security surplus in its calculation of a balanced budget. Those annual surpluses would be set aside exclusively to meet the future needs of Social Security beneficiaries.

It's a new day, a new year, and a new Senate. We have the opportunity of a fresh start and, hopefully, the wisdom of experience. On this first day of the 108th Congress, with the first piece of legislation I am introducing this year, I call on the Senate to safeguard the future, by considering and passing a Balanced Budget Amendment to the Constitution, a Bill of Economic Rights for our future and our children.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 1—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. FRIST submitted the following resolution; which was considered and agreed to:

###### S. RES. 1

*Resolved*, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

##### SENATE RESOLUTION 2—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. FRIST submitted the following resolution; which was considered and agreed to:

###### S. RES. 2

*Resolved*, That the Secretary inform the House of Representatives that a quorum of