

and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 846

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1103

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1103, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards.

S. 1359

At the request of Mrs. BOXER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1359, a bill to allow credit unions to provide international money transfer services and to require disclosures in connection with international money transfers from all money transmitting service providers.

S. 1411

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1666

At the request of Mr. COCHRAN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from South Dakota (Mr. DASCHLE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1900

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 2157

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2157, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 2244

At the request of Mrs. HUTCHISON, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2244, a bill to protect the public's ability to fish for sport, and for other purposes.

S. 2249

At the request of Mr. LIEBERMAN, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2249, a bill to amend the Stewart B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

S. 2270

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2273

At the request of Mr. MCCAIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2273, a bill to provide increased rail transportation security.

S. 2302

At the request of Mr. CONRAD, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2310

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2310, a bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes.

S. 2353

At the request of Mr. CRAIG, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2353, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

At the request of Mr. HATCH, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. SMITH) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2363, *supra*.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan

(Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. RES. 170

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 170, a resolution designating the years 2004 and 2005 as "Years of Foreign Language Study."

S. RES. 349

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 349, a resolution recognizing and honoring May 17, 2004, as the 50th anniversary of the Supreme Court decision in *Brown v. Board of Education of Topeka*.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 2395. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CONRAD. Mr. President, I am pleased to introduce today the Theodore Roosevelt Commemorative Coin Act, which would commemorate the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt. This bill authorizes the Secretary of the Treasury to mint and issue coins bearing the likeness of Theodore Roosevelt. The sales of these coins would support programs to educate the public about the impressive achievements of our 26th President.

As those of my colleagues who have studied Roosevelt's life are aware, my state has a special connection with Theodore Roosevelt. Roosevelt liked to say that the years he spent in the Badlands of North Dakota were the best of his life. He even attributed his success as President to his experiences as a hunter and rancher in western North Dakota. It is with great pride, then, that I introduce the Theodore Roosevelt Commemorative Coin Act, which honors President Roosevelt's foreign policy achievements and commitment to conservation in this country. In particular, the bill highlights his success in drawing up the 1905 peace treaty ending the Russo-Japanese War. This accomplishment earned him the 1906 Nobel Peace Prize—making him the first citizen of the United States to receive the Peace Prize. Moreover, the bill pays tribute to his enduring respect for our Nation's wildlife and natural resources. Over his tenure as

President, Roosevelt established 51 bird reserves, 4 game preserves, 150 national forests, 5 national parks, and 18 national monuments, totaling nearly 230 million acres of land placed under public protection.

It is fitting, therefore, that the proceeds from the surcharge associated with the coin be used for educational programs at two very important sites in the life of Theodore Roosevelt—his home in New York, Sagamore Hill National Historic Site, and the national park that bears his name and honors his conservation efforts, Theodore Roosevelt National Park, located in Medora, ND. These two sites played a significant role in the development of Teddy Roosevelt's policies and offered him refuge away from the stress associated with public life.

In addition, the bill would provide funds for the maintenance and acquisition of the largest collection of Roosevelt's unofficial papers, which is housed in the Harvard Library. The Theodore Roosevelt Collection is second only to the Library of Congress's collection of Roosevelt's presidential papers, and the funds raised by this bill would aid in the Collection's goal of purchasing additional Roosevelt materials, which will be preserved and exhibited throughout history.

As a North Dakotan and an American, it is my hope that this bill will renew interest in the life of Theodore Roosevelt. Roosevelt's courage, patriotism, optimism, and spirit reflect what is best about our country, and he is remembered not only as a great statesman, but also a friend to the environment. I encourage my colleagues to support this important legislation to honor Theodore Roosevelt's contributions to U.S. foreign and domestic policy and build upon his efforts to promote respect for our nation's lands.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. CHAMBLISS, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON):

S. 2396. A bill to make improvements in the operations and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, from time to time the Judicial Conference and the Administrative Office of the U.S. Courts recommend legislative proposals to improve the efficiency and enhance the operations of the Federal courts. I believe that, out of comity to the judicial branch, the Senate should have the judiciary's specific proposals on record so that we can give those suggestions proper consideration.

Today, joined by Senators LEAHY, CHAMBLISS, CLINTON, DURBIN, and SCHUMER, I am introducing the Federal Courts Improvement Act of 2004. This bill contains both technical and substantive changes in the law. These recommendations made by the judicial branch will improve the judicial process and enhance judiciary personnel ad-

ministration, benefits, and protections. Some proposals have been carried over from previous Congresses, but the legislation also contains some new proposals which the Federal judiciary believes will improve its operation. I appreciate the support of my cosponsors, and encourage the entire Senate to support this legislation.

Many provisions contained in this bill streamline the operation of the Federal court system or otherwise facilitate judicial operations. The bill authorizes some realignments in the composition or the place of holding court of specified district courts. For example, section 120 would grant emergency authority for circuit, district and bankruptcy courts, as well as magistrate judges, to conduct court proceedings outside the territorial jurisdiction of the court. The need for this legislation has become apparent following the terrorist attacks of September 11, 2001, and the impact of that disaster on court operations, in particular in New York City. In emergency conditions, a Federal court facility in an adjoining district (or circuit) might be more readily and safely available to court personnel, litigants, jurors and the public than a facility at a place of holding court within the district. This is particularly true in major metropolitan areas such as New York, Washington, DC, Dallas and Kansas City, where the metropolitan area includes parts of more than one judicial district.

Other sections of the bill contain provisions that would improve resource management within the judiciary. The bill would improve the procedures for recouping technology costs and also would broaden the courts' investment options and offer an improved procedure for investing court registry funds in Treasury securities. Other provisions increase the approval thresholds for payment vouchers or expand the delegation authority of respect to approving vouchers. These improvements will reduce the amount of time judges must devote to non-judicial matters.

Provisions in this bill also clarify existing law to better fulfill Congress's original intent or to make technical corrections. For example, sections 113 and 114 clarify diversity jurisdiction rules as applied to resident aliens and foreign corporations. Section 117 repeals references to obsolete sections of the U.S. Code.

In addition, the Federal Courts Improvement Act of 2004 also contains provisions designed to improve personnel administration, benefits and protections for employees working for the Federal judiciary. These provisions, in some cases, bring the Federal judicial system in line with the executive branch and other governmental bodies. Other provisions are designed to improve the ability of the judiciary to recruit and retain personnel.

Several sections improve the judicial system in other ways. The bill offers protection of certain information con-

tained in bankruptcy case files, such as Social Security account numbers, from public disclosure. The proposed legislation provides protection against malicious recording of fictitious liens against Federal judges. The bill provides for improving the process for determining Federal court security requirements.

I ask unanimous consent that the text of the legislation, along with a section-by-section analysis of the bill, be printed in the RECORD.

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

S. 2396

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

# SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Courts Improvement Act of 2004".

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

Sec. 1. Short title and table of contents.

## TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Authority of bankruptcy administrators to appoint trustees and to serve as trustees in bankruptcy cases in the States of Alabama and North Carolina.

Sec. 102. Venue in bankruptcy cases.

Sec. 103. Place of holding court in Texas, Arkansas, Texas, and Texarkana, Arkansas.

Sec. 104. Change in composition of divisions of western district of Texas.

Sec. 105. Change of composition of divisions of western district of Tennessee.

Sec. 106. Place of holding court in the northern district of New York.

Sec. 107. Juror fees.

Sec. 108. Supplemental attendance fee for petit jurors serving on lengthy trials.

Sec. 109. Authority of district courts as to a jury summons.

Sec. 110. Automatic excuse upon request from jury service for members of the Armed Services, members of fire and police departments, and public officers.

Sec. 111. Elimination of the public drawing requirements for juror wheels.

Sec. 112. Conditions of probation and supervised release.

Sec. 113. Clarifying the scope of diversity of citizenship for resident aliens.

Sec. 114. Clarifying the scope of diversity of citizenship for corporations with foreign contacts.

Sec. 115. Reporting of wiretap orders.

Sec. 116. Magistrate judge participation at circuit conferences.

Sec. 117. Repeal of Obsolete Speedy Trial Act cross references to the Narcotic Addict Rehabilitation Act.

Sec. 118. Taxing of court technology costs.

Sec. 119. Investment of court registry funds.

Sec. 120. Emergency authority to conduct court proceedings outside the territorial jurisdiction of the court.

Sec. 121. Restriction of public access to certain information contained in bankruptcy case files.

Sec. 122. Security of social security account number of debtor in notice debtor provides to creditor.

# TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

- Sec. 201. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
- Sec. 202. Federal Judicial Center personnel matters.
- Sec. 203. Annual leave limit for judicial branch executives.
- Sec. 204. Supplemental benefits program.
- Sec. 205. Student loan forgiveness for Federal defenders.
- Sec. 206. Law clerk loan deferment.
- Sec. 207. Inclusion of judicial branch personnel in organ donor leave program.
- Sec. 208. Transportation and subsistence for Criminal Justice Act defendants.
- Sec. 209. Maximum amounts of compensation for attorneys.
- Sec. 210. Maximum amounts of compensation for services other than counsel.
- Sec. 211. Excess compensation delegation authority.
- Sec. 212. Protection against malicious recording of fictitious liens against Federal judges.
- Sec. 213. Appointing authority for circuit librarians.
- Sec. 214. Judicial branch security requirements.
- Sec. 215. Bankruptcy, magistrate, and territorial judges life insurance.
- Sec. 216. Health insurance for surviving family and spouses of judges.

## TITLE I—JUDICIAL PROCESS IMPROVEMENTS

### SEC. 101. AUTHORITY OF BANKRUPTCY ADMINISTRATORS TO APPOINT TRUSTEES AND TO SERVE AS TRUSTEES IN BANKRUPTCY CASES IN THE STATES OF ALABAMA AND NORTH CAROLINA.

Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99-554; 100 Stat. 3088) become effective in and with respect to a judicial district in the State of Alabama, or in and with respect to a judicial district in the State of North Carolina—

- (1) a reference in sections 303(g), 701(a), 703(b), 703(c), 1102(a), 1104(d), 1163, 1202, and 1302 of title 11, United States Code, to the United States trustee shall be deemed to be a reference to the bankruptcy administrator appointed and serving in such district under the authority of section 302(d)(3)(I) of such Act;
- (2) a reference in sections 1202(a) and 1302(a) of title 11, United States Code, to section 586(b) of title 28, United States Code, shall be deemed to be a reference to such section as modified in operation by the other provisions of this section;
- (3) a reference in sections 701(a)(1) and 703(c) of title 11, United States Code, to a panel of private trustees established under section 586(a)(1) of title 28, United States Code, shall be deemed to be a reference to the panel of private trustees established in such district under the authority of section 302(d)(3)(I)(i) of such Act; and
- (4) a reference in subsections (b), (d), and (e) of section 586 of title 28, United States Code—

(A) to the Attorney General shall be deemed to be a reference to the Director of the Administrative Office of the United States Courts;

(B) to the United States trustee for the region shall be deemed to be a reference to the bankruptcy administrator appointed for such district;

(C) to a standing trustee shall be deemed to be a reference to a standing trustee appointed by the bankruptcy administrator;

(D) to the designation of 1 or more assistant United States trustees shall be disregarded; and

(E) to the deposit in the United States Trustee System Fund shall be deemed to be a reference to the payment to the clerk of the court for deposit in the Treasury;

for purposes of cases pending under title 11, United States Code, in such district.

### SEC. 102. VENUE IN BANKRUPTCY CASES.

Section 1412 of title 28, United States Code, is amended by inserting “, on its own motion or on timely motion of a party in interest,” after “A district court”.

### SEC. 103. PLACE OF HOLDING COURT IN TEXARKANA, TEXAS, AND TEXARKANA, ARKANSAS.

Sections 83(b)(1) and 124(c)(5) of title 28, United States Code, are each amended by inserting after “held at Texarkana” the following: “, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas”.

### SEC. 104. CHANGE IN COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TEXAS.

(a) IN GENERAL.—Section 124(d) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking “county of El Paso” and inserting “counties of El Paso and Hudspeth”; and

(2) in paragraph (6), by striking “Hudspeth,”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Texas on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Texas on the effective date of this section.

### SEC. 105. CHANGE OF COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “Dyer,” after “Decatur,”; and

(B) in the last sentence by inserting “and Dyersburg” after “Jackson”; and

(2) in paragraph (2)—

(A) by striking “Dyer,”; and

(B) in the second sentence, by striking “and Dyersburg”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Tennessee on the effective date of this section.

### SEC. 106. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by striking “and Watertown” and inserting “Watertown, and Plattsburgh”.

### SEC. 107. JUROR FEES.

(a) IN GENERAL.—Section 1871(b)(1) of title 28, United States Code, is amended by striking “\$40” and inserting “\$50”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2004.

### SEC. 108. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

(a) IN GENERAL.—Section 1871(b)(2) of title 28, United States Code, is amended by striking “thirty” in each place it occurs, and inserting “5”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2004.

### SEC. 109. AUTHORITY OF DISTRICT COURTS AS TO A JURY SUMMONS.

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking “shall” and inserting “may”; and

(2) by striking “his”.

### SEC. 110. AUTOMATIC EXCUSE UPON REQUEST FROM JURY SERVICE FOR MEMBERS OF THE ARMED SERVICES, MEMBERS OF FIRE AND POLICE DEPARTMENTS, AND PUBLIC OFFICERS.

(a) REMOVAL OF EXEMPTION.—Section 1863(b) of title 28, United States Code, is amended by—

(1) striking paragraph (6); and

(2) redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) PERMANENT EXCUSE.—Section 1863(b)(5) of title 28, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B) specify that the following persons, upon individual request, shall be excused from jury service:

“(i) Members in active service in the Armed Forces of the United States.

“(ii) Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession.

“(iii) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

“(iv)(I) Volunteer safety personnel.

“(II) In this clause, the term ‘volunteer safety personnel’ means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1865(a) of title 28, United States Code, is amended in the first sentence by striking “or exempt”.

(2) Section 1866 of title 28, United States Code, is amended—

(A) in subsection (a), in the first sentence by striking “exempt or”;

(B) in subsection (c), in the first sentence—

(i) by striking “or (6)”;

(ii) by striking “excused, or exempt” and

inserting “or excused”; and

(C) in subsection (d), by striking “exempt”.

(3) Section 1869(h) of title 28, United States Code, is amended in the first sentence by striking “or exempted”.

**SEC. 111. ELIMINATION OF THE PUBLIC DRAWING REQUIREMENTS FOR JUROR WHEELS.**

(a) **DRAWING OF NAMES FROM JURY WHEEL.**—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking the term “publicly”; and

(2) by inserting after the first sentence “The clerk or jury commission shall post a general notice for public review in the clerk’s office explaining the process by which names are periodically and randomly drawn.”.

(b) **SELECTION AND SUMMONING OF JURY PANELS.**—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence by striking the term “publicly”; and

(2) by inserting after the second sentence “The clerk or jury commission shall post a general notice for public review in the clerk’s office explaining the process by which names are periodically and randomly drawn.”.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 1869 of title 28, United States Code, is amended—

(1) by striking subsection (k); and

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

**SEC. 112. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.**

(a) **CONDITIONS OF PROBATION.**—Section 3563(a)(2) of title 18, United States Code, is amended by striking “(b)(2), (b)(3), or (b)(13),” and inserting “(b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or”.

(b) **SUPERVISED RELEASE AFTER IMPRISONMENT.**—Section 3583(d) of title 18, United States Code, is amended by striking “section 3563(b)(1)” and all that follows through “appropriate,” and inserting “section 3563(b) and any other condition it considers to be appropriate, except that a condition set forth in section 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with subsection (e)(2) and only when facilities are available.”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 3563(b)(10) of title 18, United States Code, is amended by inserting “or supervised release” after “probation”.

**SEC. 113. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR RESIDENT ALIENS.**

(a) **IN GENERAL.**—Section 1332(a) of title 28, United States Code, is amended by striking the last sentence and inserting the following: “The district courts shall not have original jurisdiction under paragraph (2) or (3) where the matter in controversy is between a citizen of a State and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same State.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act and apply only to actions filed on or after such date.

**SEC. 114. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR CORPORATIONS WITH FOREIGN CONTACTS.**

(a) **IN GENERAL.**—Section 1332(c) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

“(1) a corporation shall be deemed a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business; and”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the

date of enactment of this Act and apply only to actions filed on or after such date.

**SEC. 115. REPORTING OF WIRETAP ORDERS.**

Paragraph (1) of section 2519 of title 18, United States Code, is amended by striking all that precedes “(a)” and inserting the following:

“(1) In January of each year, any judge who has issued an order (or extension thereof) under section 2518 which expired during the preceding year or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—”.

**SEC. 116. MAGISTRATE JUDGE PARTICIPATION AT CIRCUIT CONFERENCES.**

Section 333 of title 28, United States Code, is amended in the first sentence by inserting “magistrate,” after “district.”.

**SEC. 117. REPEAL OF OBSOLETE SPEEDY TRIAL ACT CROSS REFERENCES TO THE NARCOTIC ADDICT REHABILITATION ACT.**

Section 3161(h) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (B) and (C); and

(B) by redesignating subparagraphs (D) through (J) as subparagraphs (B) through (H), respectively;

(2) by striking paragraph (5); and

(3) by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

**SEC. 118. TAXING OF COURT TECHNOLOGY COSTS.**

Section 1920 of title 28, United States Code, is amended—

(1) in paragraph (2) by striking “of the court reporter for all or any part of the stenographic transcript” and inserting “for printed or electronically recorded transcripts;”; and

(2) in paragraph (4) by striking “copies of papers” and inserting “the costs of making copies of any materials where the copies are.”.

**SEC. 119. INVESTMENT OF COURT REGISTRY FUNDS.**

(a) **IN GENERAL.**—Chapter 129 of title 28, United States Code, is amended by inserting after section 2044 the following:

**“§ 2045. Investment of court registry funds**

“(a) The Director of the Administrative Office of the United States Courts, or the Director’s designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director’s designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).”.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—The table of sections for chapter 129 of title 28, United States Code, is amended by adding after the item relating to section 2044 the following:

“2045. Investment of court registry funds.”.

**SEC. 120. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT.**

(a) **CIRCUIT COURTS.**—Section 48 of title 28, United States Code, is amended by adding at the end the following:

“(e) Each court of appeals may hold special sessions at any place outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a

finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could be held. The court may transact any business at a special session outside the circuit which it might transact at a regular session.”.

(b) **DISTRICT COURTS.**—Section 141 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “special sessions”; and

(2) by adding at the end the following:

“(b) Special sessions of the district court may be held at such places outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held. Any business may be transacted at a special session outside the district which might be transacted at a regular session. The district court may summon jurors from within the district to serve in any case in which special sessions are conducted outside the district under this section.”.

(c) **BANKRUPTCY COURTS.**—Section 152(c) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2) Bankruptcy judges may hold court at such places outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court. Bankruptcy judges may transact any business at special sessions of court held outside the district that might be transacted at a regular session.”.

(d) **UNITED STATES MAGISTRATE JUDGES.**—Section 636 of title 28, United States Code, is amended in subsection (a) by striking “territorial jurisdiction prescribed by his appointment” and inserting “district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law”.

**SEC. 121. RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.**

Section 107 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may, protect an entity with respect to a trade secret or confidential research, development, or commercial information.

“(c) The bankruptcy court for cause may protect a person with respect to the following contained in a paper filed, or to be filed, in a case under this title:

“(1) Any ‘means of identification’ as defined under section 1028(d)(4) of title 18.

“(2) Information that could cause undue annoyance, embarrassment, oppression, or risk of injury to person or property.”.

**SEC. 122. SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE DEBTOR PROVIDES TO CREDITOR.**

Section 342(c) of title 11, United States Code, is amended by inserting "last 4 digits of the" before "taxpayer identification number".

**TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS**

**SEC. 201. DISABILITY RETIREMENT AND COST-OF-LIVING ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.**

Section 373 of title 28, United States Code, is amended—

(1) in subsection (c) by striking paragraph (4) and inserting the following:

"(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.";

(2) by striking subsection (e) and inserting the following:

"(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of 65 years or upon relinquishing office if the judge is then beyond the age of 65 years—

"(A) if the judicial service of such judge, continuous or otherwise, aggregates 15 years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

"(B) if such judicial service, continuous or otherwise, aggregated less than 15 years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to 15.

"(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least 5 years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office or, in the case of a judge who has served at least 10 years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge's years of judicial service bears to 15.";

and

(3) by striking subsection (g) and inserting the following:

"(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring."

**SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.**

Section 625 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "United States Code, governing" and inserting "governing";

(B) by striking "pay rates, section 5316, title 5, United States Code" and inserting "under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5"; and

(C) by striking "the Civil Service" and all that follows through "Code" and inserting "subchapter III of chapter 83 of title 5 shall be adjusted under section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted under section 8468 of such title";

(2) in subsection (c), by striking "United States Code,"; and

(3) in subsection (d)—

(A) by striking "United States Code,"; and

(B) by striking "section 5332, title 5, United States Code" and inserting "under section 5332 of title 5".

**SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH EXECUTIVES.**

Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking "or";

(2) in subparagraph (E) by striking the period and inserting "or"; and

(3) by adding at the end the following:

"(F) the judicial branch designated as a court unit executive position by the Judicial Conference of the United States or designated as an executive position in the Federal Judicial Center by the Board of the Federal Judicial Center."

**SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.**

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (6) through (24) as paragraphs (7) through (25), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) In the Director's discretion, establish a program of benefits, in addition to those otherwise provided by law, for officers and employees of the judicial branch, including justices and judges of the United States;"

**SEC. 205. STUDENT LOAN FORGIVENESS FOR FEDERAL DEFENDERS.**

Section 465(a)(2)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)(F)) is amended by inserting before the semicolon the following: "or as a full-time Federal defender attorney employed in a defender organization established under 3006A(g) of title 18, United States Code".

**SEC. 206. LAW CLERK LOAN DEFERMENT.**

(a) FEDERAL STAFFORD LOANS.—

(1) AMENDMENTS TO SECTION 427.—Section 427(a) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)) is amended—

(A) in paragraph (3)(B), by striking "and" after the semicolon;

(B) in paragraph (4), by striking the period and inserting "and"; and

(C) by inserting at the end the following:

"(5) in the case of a borrower who is serving as a full-time judicial law clerk in a court as defined under section 610 of title 28, United States Code, or appointed under section 675 of that title, payment of the unpaid principal balance and interest on a federally insured student loan may be deferred not in excess of 3 years."

(2) AMENDMENTS TO SECTION 428.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(A) in clause (i)(I), by striking "or" after the semicolon;

(B) in subclause (II), by striking the comma and inserting "or"; and

(C) by inserting at the end the following:

"(III) is serving as a full-time judicial law clerk in a court as defined under section 610 of title 28, United States Code, or a law clerk appointed under section 675 of that title."

(b) DIRECT LOANS.—Section 455(f)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)(2)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon;

(2) in clause (ii), by striking the comma and inserting "or"; and

(3) by inserting at the end the following:

"(iii) is serving as a full-time judicial law clerk, in a court as defined under section 610 of title 28, United States Code, or a law clerk appointed under section 675 of that title."

(c) FEDERAL PERKINS LOANS.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) in clause (iii), by striking "or" after the semicolon;

(2) in clause (iv), by inserting "or" after the semicolon; and

(3) by inserting at the end the following:

"(v) not in excess of 3 years during which the borrower is serving as a full-time judicial law clerk in a court as defined under section 610 of title 28, United States Code, or a law clerk appointed under section 675 of that title;"

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) loans made after July 1, 1998; and

(2) employment as a judicial clerk that occurs on or after the date of enactment of this Act.

**SEC. 207. INCLUSION OF JUDICIAL BRANCH PERSONNEL IN ORGAN DONOR LEAVE PROGRAM.**

Section 6327(a) of title 5, United States Code, is amended by inserting "or an entity of the judicial branch" after "An employee in or under an Executive agency".

**SEC. 208. TRANSPORTATION AND SUBSISTENCE FOR CRIMINAL JUSTICE ACT DEFENDANTS.**

Section 4285 of title 18, United States Code, is amended—

(1) in the first sentence, by striking "to appear before the required court";

(2) by striking "to the place where his appearance is required," and inserting "(1) to the place where each appearance is required and (2) to return to the place of his arrest or bona fide residence,";

(3) by inserting "during travel" after "subsistence expenses"; and

(4) by striking "to his destination," and inserting "to his destination and during any proceeding at which his appearance is required,".

**SEC. 209. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.**

Section 3006A(d)(2) of title 18, United States Code, is amended—

(1) by striking "5,200" and inserting "7,000";

(2) by striking "1,500" and inserting "2,000";

(3) by striking "3,700" and inserting "5,000";

(4) by striking "1,200" each place it appears and inserting "1,500"; and

(5) by striking "3,900" and inserting "5,000".

**SEC. 210. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.**

Section 3006A(e) of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "\$300" and inserting "\$500"; and

(B) in subparagraph (B), by striking "\$300" and inserting "\$500"; and

(2) in paragraph (3) in the first sentence by striking "\$1,000" and inserting "\$1,600".

**SEC. 211. EXCESS COMPENSATION DELEGATION AUTHORITY.**

(a) WAIVING MAXIMUM AMOUNTS.—Section 3006A(d)(3) of title 18, United States Code, is amended in the second sentence by striking "circuit judge" and inserting "or senior circuit judge, or to an appropriate nonjudicial officer qualified by training and legal experience. In any case in which the delegate judge or nonjudicial officer reduces the excess payment certified by the court, the claimant may seek review by the chief judge".

(b) **MAXIMUM AMOUNTS.**—Section 3006A(e)(3) of title 18, United States Code, is amended in the second sentence by striking “circuit judge” and inserting “or senior circuit judge, or to an appropriate nonjudicial officer qualified by training and legal experience. In any case in which the delegate judge or nonjudicial officer reduces the excess payment certified by the court, the claimant may seek review by the chief judge”.

(c) **CONTROLLED SUBSTANCES CASES.**—Section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)) is amended in the second sentence by striking “circuit judge” and inserting “or senior circuit judge, or to an appropriate nonjudicial officer qualified by training and legal experience. In any case in which the delegate judge or nonjudicial officer reduces the excess payment certified by the court, the claimant may seek review by the chief judge”.

**SEC. 212. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.**

(a) **IN GENERAL.**—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

**“§ 1521. Retaliating against a Federal judge by false claim or slander of title**

“(a) Whoever files or attempts to file, in any public record or in any private record which is generally available to the public, any lien or encumbrance against the real or personal property of a Federal judge, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 5 years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than 10 years, or both.

“(b) In this section, the term ‘Federal judge’ means a justice or judge of the United States as defined under section 451 of title 28, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court, District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“1521. Retaliating against a Federal judge by false claim or slander of title.”.

**SEC. 213. APPOINTING AUTHORITY FOR CIRCUIT LIBRARIANS.**

Section 713 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Each court of appeals” and inserting “The judicial council of each circuit”; and

(B) striking “the court” and inserting “the judicial council”; and

(2) in subsection (b), by striking “court” each place it appears and inserting “judicial council”.

**SEC. 214. JUDICIAL BRANCH SECURITY REQUIREMENTS.**

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (22) through (24) as paragraphs (23) through (25), respectively; and

(2) by inserting after paragraph (21) the following:

“(22) After consultation with the United States Marshals Service, and others if nec-

essary, determine the security requirements for the Judicial Branch;”.

**SEC. 215. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES LIFE INSURANCE.**

(a) **BANKRUPTCY JUDGES.**—Section 153 of title 28, United States Code, is amended by adding at the end the following:

“(d) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a bankruptcy judge of the United States in regular active service or who is retired under section 377 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.”.

(b) **UNITED STATES MAGISTRATE JUDGES.**—Section 634(c) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a magistrate judge of the United States in regular active service or who is retired under section 377 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.”.

(c) **TERRITORIAL JUDGES.**—

(1) **GUAM.**—Section 24 of the Organic Act of Guam (48 U.S.C. 1424b) is amended by adding at the end the following:

“(c) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge appointed under this section who is in regular active service or who is retired under section 373 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.”.

(2) **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**—The first section of the Act of November 8, 1977 (48 U.S.C. 1821; Public Law 95-157; 91 Stat. 1265) is amended in subsection (b) by adding at the end the following:

“(5) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge appointed under this section who is in regular active service or who is retired under section 373 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.”.

(3) **VIRGIN ISLANDS.**—Section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)) is amended—

(A) by inserting “(1)” after “(a)”; and

(B) by adding at the end the following:

“(2) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge appointed under this section who is in regular active service or who is retired under section 373 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.”.

**SEC. 216. HEALTH INSURANCE FOR SURVIVING FAMILY AND SPOUSES OF JUDGES.**

Section 8901(3) of title 5, United States Code, is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by adding “and” at the end; and

(3) by adding at the end the following:

“(E) a member of a family who is a survivor of—

“(i) a Justice or judge of the United States, as defined under section 451 of title 28, United States Code;

“(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;

“(iii) a judge of the United States Court of Federal Claims; or

“(iv) a United States bankruptcy judge or a full-time United States magistrate judge;”.

**FEDERAL COURTS IMPROVEMENT ACT**

108TH CONGRESS

**SECTION-BY-SECTION ANALYSIS**

**TITLE I—JUDICIAL PROCESS IMPROVEMENTS**

**Sec. 101. Authority of Bankruptcy Administrators To Appoint Trustees and to Serve as Trustees in Bankruptcy Cases in the States of Alabama and North Carolina.**

This section provides that the bankruptcy administrators in Alabama and North Carolina shall have the same authority as that exercised by United States trustees in all other states. The bankruptcy administrator program was established in the judicial districts in Alabama and North Carolina pursuant to section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986. Expanding the duties of bankruptcy administrators would further one of the central goals of the Bankruptcy Reform Act of 1978, Public Law No. 95-598: freeing bankruptcy judges from an administrative role in their cases. This will improve the efficiency and effectiveness of the bankruptcy administrators to facilitate the work of the court to the same degree that United States trustees have done so in the other 48 states.

**Sec. 102. Venue in Bankruptcy Cases.**

This provision amends section 1412 of title 28, United States Code, to clarify that a district court or a bankruptcy court exercising original jurisdiction under section 157 of title 28, United States Code, may raise an issue of venue sua sponte.

Section 1412, at present, neither explicitly allows nor explicitly prohibits a district court or bankruptcy court from raising an issue of venue sua sponte. Federal Rule of Bankruptcy Procedure 1014 implements the venue statute. The Rule only contains the phrase “on timely motion by a party in interest.” The incongruence between the statute and Rule has caused confusion. Currently, courts in the same districts raise the issue of venue sua sponte, while others do not.

While multiple fora may be permissive locations for filing a bankruptcy case, it is important that courts have the authority to meet the policy goals of preventing forum shopping and promoting an economic, efficient, and effective administration of that case. The Judicial Conference believes that amending the statute to clarify that the courts have the power to raise this issue sua sponte furthers those goals and, promotes the uniform application of the law. For example, if a debtor company, with its primary business and the vast majority of its creditors and employees in a particular state, has its bankruptcy petition filed in another, geographically removed state, the resulting bankruptcy proceeding could impose significant burdens upon the parties in interest, and may not result in the most efficient or effective administration of the bankruptcy. With the enactment of this section, the court, on its own motion or on a timely motion of a party in interest, may transfer a bankruptcy case or proceeding to a district court for another district in the interest of justice or for the convenience of the parties.

**Sec. 103. Place of Holding Court in**

Texarkana, Texas and Texarkana, Arkansas.

This section amends sections 83(b)(1) and 124(c)(5) of title 28, United States Code, to provide that the Western District of Arkansas and the Eastern District of Texas may hold court anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas. Two courtrooms in the Texarkana courthouse are in one state and two are in the other. As the caseload in Texarkana has



increased in recent years (especially the criminal dockets), the courts have demonstrated a desire to use the court rooms interchangeably to move their dockets more efficiently. Currently, Texas-originated cases must be tried in Texas and Arkansas-originated cases in Arkansas. This amendment is a further refinement of the efficiency move to build one courthouse for judicial districts in different states.

**Sec. 104. Change in Composition of Divisions of Western District of Texas.**

This section would amend the jurisdiction of two divisions of the Western District of Texas by removing Hudspeth County from the Pecos Division and including it in the El Paso Division. The change is sought because increased law enforcement activities in the District's border counties continue to result in increased criminal filings. Three major border checkpoints are located in Hudspeth County, which is directly adjacent to the El Paso District. These checkpoints are closer to El Paso than they are to Pecos (by approximately 135, 105, and 50 miles respectively), and most of the law enforcement agents responsible for these checkpoints live in El Paso. In addition, although the prosecution of these cases occurs in Pecos, counsel usually travels from El Paso. Moreover, El Paso is better equipped to handle the burgeoning workload, as it is where two new judgeships will be filled. Thus, this section would benefit defendants, counsel, and law enforcement agencies, reduce travel costs, and increase the cost effectiveness of administering justice in the district. The United States Attorney for the Western District of Texas supports the proposal.

**Sec. 105. Change in Composition of Divisions of Western District of Tennessee.**

This section amends Section 123(c) of title 28, United States Code, to move Dyer County from the Western Division of the Western District of Tennessee to the Eastern Division. The section further provides that court for the Eastern Division shall be held at Dyersburg and Jackson. Currently, court for the Eastern Division is held only at Jackson. Dyersburg is removed as a place of holding court for the Western Division.

Dyersburg, the largest city in Dyer County, is approximately 75 miles from Memphis, the location of the Western Division court. However, Dyersburg is only 47 miles from Jackson, the location of the Eastern Division court. A drive from Dyersburg to Memphis takes approximately two hours but a drive from Dyersburg to Jackson requires less than one hour. In addition, there is a new four-lane highway between Dyersburg and Jackson which results in a very easy drive. The judges of this court are in agreement that this transfer would result in a convenience to litigants, lawyers, and jurors from Dyer County. Even more importantly, the court would realize a significant savings resulting from reduced juror mileage fees. The Dyer County Bar Association surveyed its membership concerning the proposed transfer of Dyer County. According to the president of the Dyer County Bar Association at that time, there was near unanimous support for the proposal.

**Sec. 106. Place of Holding Court in the Northern District of New York.**

This section would designate Plattsburgh as a federal place of holding court in the Northern District of New York. The need to designate Plattsburgh as a place of holding court has been necessitated by the effort to increase security near our national borders in the wake of the attacks of September 2001. The Department of Justice and the U.S. Customs Service are implementing significant increases in manpower and federal law en-

forcement capability along the Canadian border in the Northern District of New York. The additional manpower and equipment resources are expected to dramatically increase the number of proceedings that will be heard at the Plattsburgh location.

Currently, there is a part-time federal magistrate judge in Plattsburgh who holds criminal proceedings at his law office. There are no dedicated federal facilities available for the judge to use. The law office has virtually no security nor sufficient space to properly accommodate the members of the press or public (or even the defendant's own family). Arrestees, the majority of who are charged with trafficking in narcotics between Canada and the United States, must be processed under these circumstances. With a significant influx of cases, this situation will not continue to be manageable.

A designated court location in Plattsburgh would greatly facilitate the prosecution of the additional cases generated at the northern ports of entry in New York State. The Plattsburgh court location would minimize the transportation of detained defendants to the Albany court location. It would actually shorten detention time and enable the Immigration and Naturalization Service to obtain more prompt dispositions in the administrative removal proceedings that follow federal prosecutions. A Plattsburgh location would also enable detention of defendants locally, a critical advantage as detention space in Albany is severely limited.

Designation of Plattsburgh as a place of holding court would allow acquisition of space for a criminal proceedings courtroom of approximately 800 square feet at the Federal Building in Plattsburgh. In addition to providing adequate space for courtroom proceedings, the designation will enable the Northern District to create a new jury division consisting of the counties of Essex, Clinton, and Franklin, thereby enabling jurors from these areas to serve in nearby Plattsburgh, rather than drive three to four hours to Albany or Watertown. Also, the bankruptcy court would be able to make use of the new courtroom, which would make an enormous difference in those cases involving litigants from the North County.

**Sec. 107. Juror Fees.**

This section would amend 28 U.S.C. §1871(b)(1) by increasing the daily fee to which a juror is entitled from \$40 to \$50. The change would compensate jurors more adequately for their services. Although the cost of living has continued to increase each year, the daily rate for jurors has not increased in twelve years. Previous increases occurred in 1990 (from \$30 to \$40), 1978 (from \$20 to \$30), and 1968 (from \$10 to \$20).

The Jury Selection and Service Act, 28 U.S.C. §1861, et seq. (Jury Act), specifically prohibits exclusion of any citizen from jury service on the basis of economic status, and its legislative history reflects support for fee increases that would make jury service less burdensome. Congress recognized that, to the extent that the burden of jury service is diminished, financial hardship excuses could decline, with consequent enhancement of representative participation of juries. Therefore, while the juror attendance fee has never been intended to support or replace salaries, it is intended to provide a minimal level of compensation for jurors' time and effort in fulfilling their civic responsibility.

The projected additional cost for FY 2004 for a \$50 daily attendance fee would be approximately \$8.1 million. Therefore enactment of this legislation would require a commensurate increase in the fees of jurors appropriations account.

**Sec. 108. Supplemental Attendance Fee for Petit Jurors Serving on Lengthy Trials.**

This section amends 28 U.S.C. §1871(b)(2) by shortening the number of days that a juror is

required to serve before he or she is eligible for the supplemental daily fee authorized by the section. Currently, a juror who is required to serve more than thirty days is permitted to receive an additional ten dollars a day, above the established juror fee of forty dollars. The economic hardship associated with jury service worsens the longer jurors are required to serve, especially if service continued for more than a week. This section recognizes the fact by reducing to five days the time before jurors could qualify for the supplemental fee.

The projected additional cost for FY 2004 for the supplemental daily fee authorized by this section would be approximately \$2 million. Therefore enactment of this legislation would require a commensurate increase in the fees of jurors appropriations account.

**Sec. 109. Authority of District Courts as to a Jury Summons.**

This section would amend 28 U.S.C. §1866(g) to clarify that a court may, but is not required to, follow up on individuals who do not respond to the jury selection process.

Under the traditional "two-step" jury selection process, qualification questionnaires and summonses are mailed to prospective jurors separately. For those who do not respond to the questionnaires, 28 U.S.C. §1864(a) provides that they "may" be called into court to fill out the form. For those who fail to respond to a summons, however, section 28 U.S.C. §1866(g) provides that they "shall" be ordered into court to show cause for their non-compliance.

Pursuant to 28 U.S.C. §1878, however, 22 districts have combined these two steps into a "one-step" jury selection process, whereby questionnaires and summonses are sent out simultaneously. Section 1878(b) expressly provides that "no challenge . . . shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure." Nonetheless, as long as section 1866(g) contains the word "shall," challenges that a jury was unlawfully empanelled can be expected to continue. See *United States vs. Cisneros*, No 97-CR-485 (D.D.C.); *United States vs. Hsia*, No 98-CR-57 (D.D.C.). This section will allow a court to take appropriate action against those who do not respond to a jury summons. The section leaves the decision of how to handle non-responders to the discretion of each court, guided by its own circumstances and experiences. The section also makes the provision gender-neutral.

**Sec. 110. Automatic Excuse Upon Request From Jury Service for Members of the Armed Services, Members of Fire and Police Departments, and Public Officers.**

This section repeals the exemption from jury service now granted to members of the Armed Forces, members of fire and police departments, and public officials under 28 U.S.C. §1863(b)(6) and grants to these persons an automatic excuse from jury service upon individual request. The current statute prohibits individuals in these broad categories of occupations to serve on a jury even if they wish to do so. Barring these individuals from jury duty is unjustified. This provision extends to these persons an automatic excuse from jury by amending 28 U.S.C. §1863(b)(5)(B) to allow them the opportunity to serve on jury if they choose to do so. If they choose not to serve, they are automatically excused.

**Sec. 111. Elimination of the Public Drawing Requirements for Juror Wheels.**

This section eliminates the noticing and public drawing requirements for selecting names from jury wheels. The Jury Act at 28 U.S.C. §§1864(a) and 1866(a) currently states that the clerk shall "publicly draw at random," from the names of persons required

for jury service. "Publicly draw" is defined in 28 U.S.C. §1869(k) as a "drawing which is conducted . . . after reasonable public notice and which is open to the public." Because computers have replaced the physical drawing of names, and because the public has little or no interest in attending a jury drawing, this section would eliminate the requirement to post a separate notice for each drawing from the master and qualified wheels, as well as the requirement to draw names publicly and/or to post public notices. Instead, one general notice will be posted in the clerk's office that explains the process by which names are randomly and periodically drawn from the wheels.

The Jury System Improvements Act of 1978, Public Law No. 95-572, authorized the Judicial Conference to adopt regulations governing the drawing of juror names from the jury wheels when a drawing is made by electronic data processing. Accordingly, the Conference has adopted regulations that take into account the changes in jury selection resulting from technological advances. The Conference regulations narrowed the meaning of "public drawing" to apply only to the selection of the starting number and interval (quotient) during the process of selecting juror names from the original source lists. The Conference did not require any public observance of the actual computer operations, interpreting the term "reasonably public notice" to mean the posting of a written announcement of the drawing from the master and qualified wheels on a bulletin board or another public place at the courthouse.

With advanced computer technology, more courts are moving to a purely randomized method for selecting juries. Indeed, the Administrative Office's new Jury Management System for the courts will perform the selection of names from the master and qualified jury wheels by a purely randomized process approved by the National Institute of Standards and Technology.

#### Sec. 112. Conditions of Probation and Supervised Release.

As part of the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. No. 104-132), Congress amended title 18, *inter alia*, by renumbering and amending the discretionary conditions of probation listed in section 3563(b), but failed to conform section 3563(a) (containing the mandatory conditions of probation) to that amendment. Therefore, the references in section 3563(a) to section 3563(b) are now erroneous. The amendment in subsection (a) of this provision corrects this technical error, thereby restoring congressional intent.

Subsection (b) corrects the same oversight as to 18 U.S.C. §3583(d), which delineates the conditions of supervised release, as is corrected in subsection (a). When 18 U.S.C. §3563(b) was amended in 1996, the cross reference found 18 U.S.C. §3583(d) was not conformed to that amendment. The amendment in subsection (b) corrects this technical error.

Subsection (b) also makes an amendment to the conditions of supervised release. Prior to the 1996 legislation, intermittent confinement available as a condition of probation, but not of supervised release. Experience since 1996 has demonstrated that this form of confinement (custody by the Bureau of Prisons during nights, weekends, or other intervals of time) is appropriate in certain circumstances. However, this provision recognizes several appropriate limitations on the use of intermittent confinement in this context. First, its use should be limited, as in the case of probation, to the first year of supervision. Second, it should be ordered only when Bureau of Prisons facilities are avail-

able to accommodate the individual in question. Third, it should be available only as a sanction for a supervised release violation as an option for the court that is less severe than revocation of supervised release.

Subsection (c) amends the section providing for intermittent confinement to clarify that its provisions, including the temporal limitations on its imposition, apply to supervised release as well as to probation.

#### Sec. 113. Clarifying the Scope of Diversity of Citizenship for Resident Aliens.

This section amends the last sentence of section 1332(a) of title 28 to clarify the scope of diversity of citizenship jurisdiction in disputes involving aliens admitted to the United States as permanent residents ("resident aliens"). Congress added this proviso to the section in 1988 (Judicial Improvements and Access to Justice Act, Pub. L. No. 100-702, 102 Stat. 4642) to "deem" a resident alien as a citizen of the state in which the alien is domiciled, with the specific purpose of denying federal jurisdiction in suits between a citizen of a state and an alien permanently residing in the same state. However, this deeming language has been interpreted as applying to other litigation circumstances involving aliens. For example, under section 1332(a)(2) a non-resident alien has been permitted to sue a United States citizen and a resident alien; the proviso deems the resident alien to be a citizen of the state of his permanent residence. Such application of the proviso has broadened the scope of diversity jurisdiction beyond that contemplated when the statute was enacted.

Thus, the Judicial Conference of the United States proposes replacing the last sentence in 28 U.S.C. §1332(a) (the resident alien proviso) with text providing that the district courts shall not have diversity of citizenship jurisdiction under subsections 1332(a)(2)-(3) where the matter in controversy is between a citizen of a state and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same state. This section will resolve differing interpretations of the sentence among federal courts.

#### Sec. 114. Clarifying the Scope of Diversity of Citizenship for Corporations With Foreign Contacts.

Section 1332(a) of title 28, United States Code, grants the district courts original jurisdiction of all civil actions where the matter in controversy exceeds \$75,000 and is between citizens of different States or citizens of a State and citizens or subjects of a foreign state. No plaintiff can be from the same State as a defendant for this diversity jurisdiction to be available. Also, diversity jurisdiction does not lie when a citizen or subject of a foreign state (alien) seeks to sue another foreigner in federal court.

When one of the parties to a civil action is a corporation, section 1332(c) deems that corporation to be a citizen of any State in which it has been incorporated "and of the State where it has its principal place of business." The quoted language was added to subsection (c)(1) in 1958 to give essentially dual citizenship to corporations. The intent was to preclude diversity jurisdiction over a dispute between an in-state citizen and a corporation incorporated in that state or primarily doing business in the state. In either situation, neither party faced a threat of bias if the action were to be resolved in state court. For example, today under 1332(c), if a corporation incorporated in Delaware has its principal place of business in Florida it is deemed a citizen of both Delaware and Florida. If a Florida citizen or a Delaware citizen sues that corporation, diversity jurisdiction would be defeated because both the plaintiff and defendant would be citizens from the same State (Florida or Delaware).

Federal courts have struggled with applying this statute when an action involves a U.S. corporation with foreign contacts or foreign corporations that operate in the United States. This difficulty occurs because section 1332(c)(1) makes no reference to a corporation with either of these two types of foreign contacts (country of incorporation or principal place of doing business). Some courts have noted that because the word "States" in the subsection begins with a capital "S," it applies only to States of the Union, as well as U.S. territories, the District of Columbia, and Puerto Rico, as defined in section 1332(d). Other courts have concluded that the word "States" should mean foreign states, as well as States of the Union, when applying section 1332(c)(1).

The amendment in this section would adopt the majority view of courts interpreting the language by inserting the words "foreign state" in two places in section 1332(c)(1) to make it clear that all corporations, foreign and domestic, would be regarded as citizens of both their place of incorporation and their principal place of business. Such an approach builds upon the longstanding recognition that federal diversity and alienage jurisdiction seek to address the problem of perceived bias that results when non-citizens must litigate in a state court against opposing parties who are citizens of that state (or foreign state), either by virtue of its place of incorporation or by virtue of its principal place of business. See C. Wright & M. Kane, *The Law of Federal Courts*, 170 (6th ed. 2002). In addition to clarifying the application of the statute regarding corporate citizenship, the amendment would bring about a modest reduction in the diversity workload of the federal courts. It would not, however, deprive a corporation of access to a federal forum where there is a threat of local bias in state court. Moreover, the change made by this amendment tracks the definition of corporate citizenship recently codified in the Multiparty, Multiforum Trial Jurisdiction Act of 2002 (Pub. L. No. 107-273).

The second change in this amendment is to revise the working of section 1332(c)(1) so that a corporation shall be deemed a citizen of "every State and foreign state by which it has been incorporated," instead of "any State. . . ." Although corporations can incorporate in more than one state, the practice is rare. In applying the subsection, most courts have treated such multistate corporations as citizens of every state by which they have been incorporated. The amendment would codify the majority view, treating corporations as citizen of every state of incorporation for diversity purposes. See C. Wright & M. Kane, *The Law of Federal Courts*, 167-68 (6th ed. 2002).

#### Sec. 115. Reporting of Wiretap Orders.

Currently, 18 U.S.C. §2519(1) requires that federal and state judges submit a report to the Administrative Office no later than 30 days after the expiration of an approved order, or the denial of an order, for a wiretap. Certain judges submit numerous reports to the Administrative Office throughout the year. For example, one state judge in 1999 approved 70 wiretap orders, and therefore, was required to submit 70 separate reports. Federal and state prosecutors are required by 18 U.S.C. §2519(2) to submit information relating to wiretap orders they applied for during the preceding calendar year once in January.

The individual reports submitted by judges are not processed by the Administrative Office until the prosecutors submit their summary reports. The prosecutor's reports are then matched to the judge's reports to complete the set of information published by the Administrative Office in the annual *Wiretap Report*.



The proposed section would permit judges to submit annual summary reports on wiretap orders acted on during the previous calendar year, just as prosecutors do. This would simplify the reporting requirements for the judges and their staffs, without impacting the accuracy or timeliness of the reporting required by the statute.

**Sec. 116. Magistrate Judge Participation at Circuit Conferences.**

This section amends section 333 of title 28 of the United States Code to include magistrate judges among the judicial officers who may by statute be summoned to attend circuit judicial conferences. Magistrate judges conduct a wide variety of pretrial proceedings in criminal and civil cases with consent of the parties. Magistrate judges are regularly invited by chief circuit judges to attend circuit judicial conferences in all circuits. They were not included in section 333 upon its enactment in 1939 because the modern office of magistrate judge was not created until 1968. The amendment updates the statute to reflect the significant contributions of magistrate judges to the federal courts and the value of their attendance at circuit judicial conferences where the business of the courts in each circuit is considered.

**Sec. 117. Repeal of Obsolete Speedy Trial Act Cross References to the Narcotic Addict Rehabilitation Act.**

This provision amends 18 U.S.C. § 3161 to remove cross references to the now repealed 28 U.S.C. § 2902. The Children's Health Act of 2000, Pub. L. No. 106-310, Div. B, § 3405(c)(1), 114 Stat. 1221 (Oct. 17, 2000), repealed chapter 175 of title 28, United States Code (28 U.S.C. §§ 2901-2906), which was entitled, "Civil Commitment and Rehabilitation of Narcotics Addicts." The repeal of chapter 175 of title 28 eliminated long obsolete provisions of title 28 that were enacted as title I of the Narcotic Addict Rehabilitation Act, Pub. L. No. 89-793, 80 Stat. 1438 (Nov. 8, 1966) (NARA) which had not been used in decades since it was completely defunded in the late 1970's. See discussion in *United States v. Butler*, 676 F.Supp. 88 (W.D.Pa. 1988).

There remain, however, three references to 28 U.S.C. § 2902 in the provisions of the Speedy Trial Act, namely, 18 U.S.C. § 3161(h)(1)(B), (h)(1)(C), and (h)(5) which should be stricken from this statute.

**Sec. 118. Taxing of Court Technology Costs.**

This section would incorporate some of the expenses associated with new courtroom technologies into the assessment of litigation costs against a losing party as provided by 28 U.S.C. § 1920. Currently, § 1920 allows a court to include certain limited costs (such as fees of the clerk, marshal, and court reporter; fees for witnesses; court appointed experts, and interpreters; and fees for docketing, printing and copying of papers necessarily obtained for use in the case) into the final judgment or decree of a case. This amendment would update the section to recognize that transcripts are available in electronic form as well as in hard copy. It would also expand the concept of "papers" in order to reflect the decreasing use of paper and the increasing use of technology in creating, filing, and exchanging court documents. It would not, however, permit the taxing of costs associated with the use of technology to create, assist, enhance or present materials during a trial.

**Sec. 119. Investment of Court Registry Funds.**

Registry funds are funds received by the courts in the course of litigation. The United States district and bankruptcy courts presently hold about \$1.76 billion in registry funds on behalf of thousands of litigants,

witnesses and other participants in court proceedings. These moneys are paid into the federal courts to secure judgments or appearance bonds, to begin interpleader or land condemnation actions, and for other judicial purposes. The funds are held and administered by the clerk of the court pending the resolution of the litigation. The registry funds are deposited in accordance with section 2041 of title 28, United States Code, into interest-bearing accounts, e.g. certificates of deposit, at financial institutions that have qualified as designated depositories of public moneys in accordance with 31 C.F.R. Part 202. The courts also purchase short-term Treasury bills with registry funds. When the courts purchase these bills on the secondary market, the choice of investment instruments is limited and they must pay transaction fees.

This section would broaden the courts' investment options and offer an improved procedure for investing in Treasury securities. Under the Treasury's Government Account Series (GAS) program, there are no transaction fees, transactions may be posted daily, and a wider range of Treasury securities is available than the secondary market offers. Also, GAS has full-featured, on-line transaction facilities. Participation in the GAS program would help to reduce the courts' costs in administering registry funds.

**Sec. 120. Emergency Authority to Conduct Court Proceedings Outside the Territorial Jurisdiction of the Court.**

This section would authorize circuit, district and bankruptcy courts, as well as magistrate judges, to conduct special sessions outside their respective geographic boundaries upon a finding by the respective chief judge (or, if unavailable, the most senior active judge who is available) or the judicial council of the circuit, that, because of emergency conditions, no location within these boundaries is reasonably available where such special sessions could be held.

The need for this legislation has become apparent following the terrorist attacks of September 11, 2001, and the impact of these disasters on court operations, in particular in New York City. In emergency conditions, a federal court facility in an adjoining district (or circuit) might be more readily and safely available to court personnel, litigants, jurors and the public than a facility at a place of holding court within the district. This is particularly true in major metropolitan areas such as New York, Washington, D.C., Dallas and Kansas City, where the metropolitan area includes parts of more than one judicial district. The advent of electronic court records systems will facilitate implementation of this authority by providing judges, court staff and attorneys with remote access to case documents.

**Sec. 121. Restriction of Public Access To Certain Information Contained in Bankruptcy Case Files.**

This section would implement Judicial Conference policy regarding protection of certain information contained in bankruptcy case files from public disclosure by means of four revisions to section 107 of the Bankruptcy Code.

First, the section would transform former subsection (b)(1) regarding protection of trade secret or confidential research, development, or commercial information into a new subsection (b). No substantive change would be made to this provision.

Second, the section would create a new subsection (c) to allow the court for cause to authorize the redaction of personal identifiers to protect a debtor, creditor, or other person from identity theft or other harm. The amendment incorporates by reference section 3(d) of the Identity Theft and As-

sumption Deterrence Act of 1998 with regard to the types of personal identifiers that may be redacted. These include the debtor's or other person's name, social security account number, date of birth, driver's license number, alien registration number, government passport number, employee or taxpayer identification number, unique biometric data, unique electronic identification number, electronic address or routing code, and telecommunication identifying information or access device. The amendment would also permit the court to exercise its discretion to protect personal identifiers by means other than redaction where appropriate in the circumstances of the case.

Third, this new subsection (c) would have the effect of striking from the current provision "scandalous defamatory matter" as a basis for protection of a person and instead allow the court for cause to seal or redact "information that could cause undue annoyance, embarrassment, oppression or risk of injury to person or property." This language is drawn from Federal Rule of Civil Procedure 26 regarding the issuance of protective orders in the course of discovery. This new provision would expand the authority of the bankruptcy court to allow the court to protect information, such as the home or employment address of a debtor, because of a personal security risk, including fear of injury by a former spouse or stalker. It would also allow the court to protect other information normally considered private, such as medical information which, if publicly disclosed, could result in untoward consequences to the debtor or others.

Finally, this provision would allow the protection of information under subsection (c) "contained in a paper filed, or to be filed," in a bankruptcy case. This provision is intended to provide persons the opportunity to request protection of the information not only after it is filed with the court, but prior to filings as well. This authority would be especially useful in an electronic filing environment, where information once filed is immediately available to the public.

**Sec. 122. Security of Social Security Account Number of Debtor in Notice Debtor Provides to Creditor.**

This provision would implement Judicial Conference policy that social security account numbers be protected from public disclosure in court documents.

Section 342(c) of title 11, United States Code, currently requires a debtor to include his or her taxpayer identification number, which for an individual is almost uniformly his or her social security account number, on any notice the debtor gives to his or her creditors. Debtors are required to give such notice in various contexts, including the filing of adversary proceedings, such as a complaint to determine the dischargeability of a debt, or contested matters, such as a motion to avoid a lien impairing an exemption.

As a copy of such notice is required to be filed with the court, court files routinely include unredacted social security numbers of debtors. By requiring only the last four digits of a taxpayer identification number to appear on the notice, the debtor's full social security number will no longer appear in the court file and thus be protected from public disclosure.

**TITLE II—JUDICIARY PERSONNEL  
ADMINISTRATION, BENEFITS, AND PROTECTIONS  
Sec. 201. Disability Retirement and Cost-of-Living Adjustments of Annuities for Territorial Judges.**

The judges of the district courts of Guam, the Northern Mariana Islands, and the Virgin Islands are appointed by the President and confirmed by the Senate for ten-year

terms. Retirement benefits for territorial judges are set forth in 28 U.S.C. §373. Under this provision, a territorial judge may retire from office under any of the following three circumstances: (1) after meeting the same "rule of 80" age and service requirements applicable to Article III judges; (2) after serving at least 10 years, if removed by the President solely on grounds of mental or physical disability; or (3) at the end of a term, if not reappointed. An annuity equal to the pre-retirement salary, or prorated, in cases of disability or failure of reappointment, for judges with less than 15 years of service, is payable beginning at the time of retirement or upon attaining the age of 65 years, whichever is later. For judges who retire under the "rule of 80", the annuity is subject to the same cost-of-living adjustments (COLAs) as annuities payable under the Civil Service Retirement System, provided that such adjustments cannot result in a total annuity greater than 95 percent of an Article II judge's salary.

The retirement arrangements for these four territorial judges compare unfavorably with analogous provisions for bankruptcy judges, magistrate judges, and judges of the Court of Federal Claims (compare 28 U.S.C. §373 with 28 U.S.C. §§178 and 377) in that (1) territorial judges cannot retire if removed from office by the President on disability grounds before completing 10 years of service (as compared with five years of other non-Article III judges) and, even then, no annuity is payable until age 65 (no age restriction for other judges) and (2) territorial judges not retired at age 65 or older with combined age and service equal to eighty ("rule of 80") do not get COLAs and even those retired under the "rule of 80" do not get COLAs until salaries of active judges have increased enough to accommodate the 95 percent limitation. There is no rationale for perpetuating these differences between territorial judges and other non-Article III judges.

In addition, 28 U.S.C. §373(c)(4) currently appears to permit only those recalled territorial judges who retired on a "rule of 80" basis to receive the same compensation, travel, and other expenses as a judge on active duty with the court, in lieu of their annuities.

Accordingly, subsection (1) of this section makes a technical amendment to section 373(c)(4) that reflects the fact that any territorial judge retiring under 28 U.S.C. §373 may elect to be a "senior judge" eligible for recall service and, therefore, should be eligible to receive the same compensation as an active judge on the court being served.

Subsection (2) of this section eliminates existing inequities between territorial judges and magistrate judges and bankruptcy judges by permitting territorial judges with five or more years of service to retire on an immediate disability annuity. The annuity would be equal to 40 percent of salary if the judge has less than ten years of service, and is adjusted upward in the proportion that the number of years of service bears to fifteen for service of ten years or more.

Subsection (3) of this section applies the COLA provision of title 5 to all retired territorial judges, subject only to the limitation that the annuity may not exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.

#### Sec. 202. Federal Judicial Center Personnel Matters.

This section would restore the historic parity in the salary levels of the Federal Judicial Center's senior staff and that of the Administrative Office of the United States Courts by authorizing the Director of the Center to set the compensation of a limited

number of Center professional employees at levels equivalent to Level IV of the Executive Schedule pay rates. The proposed language would limit the Federal Judicial Center to increases in four positions. The section also corrects a misspelling in the original statute.

#### Sec. 203. Annual Leave Limit for Judicial Branch Executives.

The amendment in this section is designed to afford senior executives in the courts and the Federal Judicial Center the same right to leave carryover (720 hours) as employees in comparable positions in the executive branch and in the Administrative Office. It would make applicable to these executives the 720-hour maximum carryover amount of annual leave established for members of the executive branch's Senior Executive Services, in Government Management Reform Act of 1994 (Pub. L. No. 103-356), and for senior executives in the Administrative Office, as a result of the Administrative Office of the United States Courts Personnel Act of 1990, Pub. L. No. 101-474.

The amendment would affect approximately 400 court unit executives, including circuit executives, clerks of the courts of appeals, district court clerks, district court executives, bankruptcy court clerks, clerk of the Court of International Trade, clerk of the United States Court of Federal Claims, chief probation officers, chief pretrial services officers, senior staff attorneys, chief preargument attorneys, bankruptcy administrators, and circuit librarians. It would also affect five positions in the Federal Judicial Center.

#### Sec. 204. Supplemental Benefits Program.

The purpose of this section is to authorize the judiciary to provide its employees with a benefits package that is more competitive with those already provided throughout the private sector, state governments, colleges and universities, and the banking agencies in the executive branch. The Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation recognized the need to improve benefits and were granted authority by Congress to offer these same enhanced benefits.

In January 2001 the General Accounting Office issued a report, "High-Risk Series: An Update" (GAO-01-263) which describes four key challenges to the federal government as an employer, paramount among them was "acquiring and developing staffs whose size, skills, and deployment meet agency needs." The Judiciary, like the rest of the federal government, must recruit and retain employees with the proper skill mix in a competitive labor market. Over the next five years, the judiciary is at risk to lose 40 percent of its employee population to retirement. Also, the judiciary faces the additional challenges of recruiting staff nationwide, including in competitive labor markets in major urban areas.

The Judicial Conference of the United States has concluded that a comprehensive benefit program which responds to the current and future needs of the judiciary's workforce is essential to allow the judiciary to compete for the skilled employees that make up that workforce. The need for this authority is urgent. Severe budget constraints will only allow this program to be gradually implemented over a period of years. The personnel management problem it is intended to ameliorate is fast approaching.

#### Sec. 205. Student Loan Forgiveness for Federal Defenders.

This provision amends section 465(a)(2)(F) of the Higher Education Act of 1965, as amended by the Crime Control Act of 1990 (20

U.S.C. §1087ee(a)(2)(F)), to extend the categories of borrowers eligible for loan cancellation to include full-time federal defenders. Under section 465(a)(2)(F), a borrower is entitled to cancellation of up to 100 percent (phased in over five years of employment in a qualifying agency) of a Perkins Loan made on or after November 15, 1990, for full-time service as a qualifying law enforcement or corrections officer. While the Department of Education has interpreted the Federal Perkins Loan Program regulations to include prosecuting attorneys under the category of law enforcement officer, it has declined to extend the cancellation benefit administratively to public defenders.

Providing federal defenders with the same eligibility for student loan forgiveness as is held by their counterparts in United States attorney offices would be consonant with the parity established in the Criminal Justice Act between their salaries. See 18 U.S.C. §3006A(g)(2)(A) (the compensation of the Federal Public Defender shall be fixed at a rate not to exceed the compensation received by the United States attorney for that district, and the compensation for attorneys in a Federal Public Defender Organization shall be fixed at a rate not to exceed that paid to attorneys with similar qualifications and experience in the office of the United States attorney for that district). The underlying principle supporting the eligibility of prosecutors for student loan forgiveness—i.e., that the fundamental fairness, integrity, and credibility of the criminal justice system require the recruitment and retention of persons of the highest intellect, capability, character, and commitment to public service—applies with equal force to the men and women who serve as federal defenders. They should qualify for the same benefit.

#### Sec. 206. Law Clerk Loan Deferment.

Federal judges and Supreme Court Justices depend on the work of their law clerks. For that reason, each judge and Justice attempts to hire young attorneys with, among other qualities, records of high academic achievement. These same individuals have employment opportunities in the private sector which pay far higher salaries than a judge can offer. Because recent law school graduates frequently have significant amounts of student loan debt, judges face increasingly strong competition to secure highly capable law clerks.

Executive Branch agencies are authorized to pay up to six thousand dollars a year to repay an employee's student loan in certain circumstances. Congress has authorized this program to assist agencies to recruit and retain highly qualified individuals as employees. See 5 U.S.C. §5379. The proposal in this section is considerably less ambitious. It would only authorize judicial law clerks to defer payment of principal and interest on a federally insured loan during the period they serve as clerks.

#### Sec. 207. Inclusion of Judicial Branch Personnel in Organ Donor Leave Program.

In 1999, the Organ Donor Leave Act increased the amount of paid leave to serve as an organ donor from seven days to 30 days each calendar year. The purpose of the law was to enhance the federal government's leadership role in encouraging organ donations by making it easier for federal employees to become donors. The organ donor statute at 5 U.S.C. §6327(a) currently applies only to executive branch employees. This amendment extends the statute to the judicial branch.

#### Sec. 208. Transportation and Subsistence for Criminal Justice Act Defendants.

This section would amend 18 U.S.C. §4285 to give courts the authority to order the

United States Marshals Service to furnish transportation and subsistence for defendants returning home from court proceedings, and subsistence while attending such proceedings, including successive court appearances. The statute currently authorizes courts to order the United States Marshals Service to provide a released defendant with noncustodial transportation and subsistence to the court where that individual's appearance is required, when the interests of justice would be served and the client is financially unable to pay transportation costs.

This proposal would eliminate the present anomaly. While there is authority to bring non-custodial indigent defendants to court, there is no authority to provide the where-withal to allow them to return to their homes, or obtain food and lodging during court proceedings or on the return trip. This section would provide the presiding judge with discretion to order the payment of reasonable travel and subsistence expenses for a defendant who may need the assistance. A preliminary estimate indicates that the cost of such travel and subsistence would be approximately \$600,000 annually. When so ordered, such expenses would be paid by the United States Marshals Service from funds authorized by the Attorney General for such expenses.

#### Sec. 209. Maximum Amounts of Compensation for Attorneys.

The courts are required to pay private attorneys for indigent defendants' representation in criminal cases in situations where Federal Defenders are not available. These attorneys file vouchers for approval by the trial judges to obtain these payments. The Criminal Justice Act in 1986 established certain new "maximums" or thresholds which, when exceeded, require that the voucher be approved for payment by the chief judge of the circuit in addition to the trial court. 18 U.S.C. §3006A(d)(2)-(3). At that time, the hourly compensation rate was \$60 in-court/\$40 out-of-court which yielded an average of \$45.

The Federal Courts Improvement Act of 2000 raised the case "maximums" for compensation for two reasons. In the previous 14 years, the per hour rates had been increased to \$75 in-court and \$55 out-of-court. Secondly, the 1987 adoption of the Sentencing Guidelines significantly increased attorney time per case.

As of May 1, 2002, the hourly rate for indigent attorney representation was increased to \$90 per hour for in-court and out-of-court work. The proposal in this section would realign the case "maximums" in light of this increase in hourly rates. The percent of increase tracks the percent of increase in the hourly rate. The goal is to ensure that approximately the same percentage of vouchers are sent on to the court of appeals for approval as were sent on when Congress set the "maximums" in 1986 and 2000.

The purpose of this proposal is to provide prompt as possible payment to the attorneys who volunteer to the court to do representation work. Even at \$90 per hour, well more than half of this compensation constitutes reimbursement to an attorney for overhead and operating expenses. It is only fair to these volunteer attorneys to keep the number of vouchers which are delayed by two judge approval to a reasonable portion of the total number. A secondary goal is to relieve administration burdens on court of appeals judges to the maximum extent reasonable.

#### Sec. 210. Maximum Amounts of Compensation for Services Other Than Counsel.

This section increases the approval thresholds for payment vouchers for services of investigators, experts, and other service providers by approximately the rate of wage in-

flation since 1986 (63%), the last year the thresholds were increased. It increases from \$300 to \$500 the amount which could be expended for investigative, expert, and other services without prior judicial approval, and increases from \$1,000 to \$1,600 the amount which cannot be paid out for such services without the approval of the chief judge of the court of appeals or an active judge of the court of appeals to whom the chief judge has delegated this authority. (18 U.S.C. §3006A(e).) The cost of professional services has risen since 1986, resulting in a much greater percentage of vouchers being submitted to the chief judges of the courts of appeals for review. This delays payment to service providers and increases the administrative burden of judicial officers.

#### Sec. 211. Excess Compensation Delegation Authority.

This section expands the delegation authority of the chief judge of the court of appeals with respect to approving vouchers in excess of the statutory maximums submitted by panel attorneys and investigative, expert, and other service providers. Chief judges of the circuits currently review and approve vouchers in excess of the statutory maximums after the court before which the services were provided certifies that the excess amount is necessary to provide fair compensation. The proposed amendments would widen the pool (now limited to active circuit judges) of possible individuals to whom the chief judge may delegate such approval authority to include any senior circuit judge or an "appropriate non-judicial officer qualified by training and legal experience." The amendments also provide that a claimant may seek review by the circuit chief judge of a reduction made by any delegate in the amount that had been certified as necessary for fair compensation by the court before which the services were provided. The judiciary believes that the expanded delegation will accomplish the goal of enhanced supervision without compromising judicial responsibility for ensuring fair compensation for panel attorneys and other service providers.

In 1986, in response to a request from the circuit chief judges, the judiciary proposed and Congress enacted amendments to subsections (d)(3) and (e)(3) of the Criminal Justice Act, 18 U.S.C. §3006A, to provide that the chief judge of the circuit may delegate the excess compensation approval authority to an active circuit judge. At that time, the chief judges had expressed concern regarding the administrative burden of reviewing excess claim vouchers. Currently, with the large growth in the number of excess compensation claims, the circuit chief judges have indicated that the administration of the compensation system would be further enhanced by expanded delegation authority. By broadening the pool of persons to whom the chief judge may delegate his or her excess compensation approval authority, the chief judge will be better able to designate a person whose background fully equips him or her to decide upon the appropriate amounts of compensation for the services rendered. Moreover, in requiring that any non-judge designee be qualified by training and legal experience, the proposed amendments ensure accountability and effectiveness in voucher review. As a further safeguard for fair compensation, the amendments permit an attorney or other services provider to seek the circuit chief judge's review of a reduction made by the delegate.

#### Sec. 212. Protection Against Malicious Recording of Fictitious Liens Against Federal Judges.

In recent years, members of the federal judiciary have been victimized by persons

seeking to intimidate or harass them by the filing of false liens against the judge's real or personal property. These liens are usually filed in an effort to harass a judge who has presided over a criminal or civil case involving the filer, or who has otherwise acted against the interests or perceived interests of the filer, his family, or his acquaintances. These liens are also filed to harass a judge against whom a civil action has been initiated by the individual who has filed the lien. Often, such liens are placed on the property of judges based on the allegation that the property is at issue in the lawsuit. While the incidences of filing such liens have occurred in all regions of the country, they are most prevalent in Washington and other western states.

The responsibility to initiate legal action to remove these liens typically falls upon Assistant United States Attorneys ("AUSA"), who represent the judges. The forms of response vary according to the state law and the circumstances. It is sometimes necessary for the AUSA to bring action in state court for the removal of liens. In some circumstances, an action to remove the liens may be brought in federal court, and in others, state court proceedings are commenced and removed to federal court under the provisions of 28 U.S.C. §1452. In some cases, the AUSA may seek an injunction against further filing of liens by the litigant. All of these methods are difficult and time consuming.

The pendency of these liens prior to their removal has caused some judges great inconvenience and personal financial difficulty. There is no current federal statute under which persons engaging in this tactic may be prosecuted. Thus, a new federal criminal sanction is needed to deter the practice. This proposal would create a new provision in the federal criminal code, punishing any person who files a false lien or encumbrance against the property of any federal Judge. The new statute would provide a maximum sentence on the first offense of up to five years.

#### Sec. 213. Appointing Authority for Circuit Librarians.

This section amends Section 713 of title 28, United States Code, to provide that circuit librarians shall be selected and hired by the circuit council rather than the circuit court of appeals. In recognition of the fact that circuit librarians assist judges and clerks from all courts, including district, bankruptcy and magistrate judges as well as appellate court judges, it is more appropriate for the circuit judicial council to hire the circuit librarian, rather than the appellate court.

#### Sec. 214. Judicial Branch Security Requirements.

This section would enhance the ability of the Judicial Conference to determine the security required for the protection of judges, court employees, law enforcement officers, jurors and other members of the public who are regularly in federal courthouses and other buildings used by the Judicial Branch. The judiciary has the ability to make a determination of its requirements in all other areas of operations. Only in security, perhaps the most critical area, does the judiciary lack the authority to determine basic requirements.

Currently, the U.S. Marshals Service (USMS) and the General Services Administration (GSA) share the responsibility for judiciary security. In recent years, the judiciary has been transferring to the USMS increasing amounts of funding for court security officers and courthouse security equipment from the judiciary court security appropriation. Yet, the Judicial Conference currently lacks sufficient information from

the USMS to fully participate in assessing the effectiveness of the security program upon which the judiciary so heavily depends.

The judiciary seeks to work cooperatively with the USMS in setting security requirements, as required by statute. In order for the judiciary to participate in the determination of security requirements, the judiciary will need information from the USMS including, for example, the current security standards, the allocation of personnel, analyses regarding equipment, and resource needs. This information is necessary to help the judiciary determine weaknesses and potential improvements in its security. It will also help the judiciary to provide support for the USMS budget throughout each funding cycle.

This section would not alter the responsibility of the USMS for protection of the judiciary in buildings occupied by the courts, pursuant to a memorandum of understanding between the GSA and the USMS, under which authority has been delegated to the USMS for the security of federal courthouses. The USMS would still be responsible for the security of the judges and the court facilities. Examples of security requirements which the judiciary could determine include the need for deputy marshals in certain proceedings and whether electronic devices should be allowed into courthouses.

With this authority, the judiciary will have a relationship with the USMS that is similar to the one it has with the GSA. The Director of the Administrative Office of the U.S. Courts has the statutory authority to provide accommodations to the courts, but lacks real property authority. Therefore, the judiciary identifies and defines space requirements for the courts and helps to support the GSA budget request for courthouse construction. The GSA determines how to fulfill the judiciary's space requirements and actually constructs the courthouses. The judiciary seeks this same arrangement with the USMS—a partnership in achieving an end that is agreed to and supported by the judiciary.

This section provides the Judiciary Conference with the authority to "determine" judiciary security needs. That determination is obviously not intended to mean the USMS is required by law to implement what the determination or assessment may be. It also, obviously, does not mean that Congress is under some obligation to fund what the judiciary "determines" it needs. However, it is important for the judiciary to have a voice in setting its own security requirements. This provision would give the judiciary that voice.

#### Sec. 215. Bankruptcy, Magistrate, and Territorial Judges Life Insurance.

Prior to October 1998, Article III judges had the exclusive right to carry full Federal Employees' Group Life Insurance (FEGLI) coverage into retirement, and many judges relied on this coverage in developing their financial and estate plans. In 1998, after Congress enacted legislation expanding this benefit to all federal employees, the Office of Personnel Management proposed rate changes in FEGLI premiums that would significantly increase for judges the cost of maintaining the insurance and, for older judges, make continued coverage prohibitively expensive. To minimize the impact of this regulatory change, Congress enacted legislation, Public Law No. 106-113 (the "FEGLI fix"), authorizing the Director of the Administrative Office, on direction of the Judicial Conference, to pay the cost of any increase.

Public Law No. 106-518, the Federal Courts Improvement Act of 2000, included a provision extending the "FEGLI fix" to the Court

of Federal Claims by providing that a retired Claims Court judge is a "judge of the United States" for purposes of Federal Employees' Group Life Insurance (FEGLI) coverage. This section would extend that benefit to Bankruptcy, Magistrate, and Territorial Judges.

#### Sec. 216. Health Insurance for Surviving Family and Spouses of Judges.

Federal retirees (executive branch and Congressional employees) and their surviving spouses retain their eligibility for Federal Employees Health Benefits (FEHB) health coverage at the same cost as current employees. In order to carry FEHB coverage into retirement, retirees must have been continuously enrolled (or covered as a family member) in any FEHB plan(s) for the 5 years of service immediately before the date the annuity starts, or for the full period(s) of service since the retiree's first opportunity to enroll (if less than 5 years).

Unlike surviving family and spouses of federal employees (and retirees) in the executive branch and Congressional branch, the surviving spouses of Article III judges (not enrolled in the Judicial Survivors' Annuities System) are not eligible to continue Federal Employees Health Benefits (FEHB) in the event of the judge's death. The surviving spouses of employees who have been enrolled for five years or more immediately before their deaths may elect to continue FEHB coverage. The surviving family and spouses of deceased federal judges are not eligible to continue to receive health benefits unless the judge, within the first six months of entering service, elects to participate in a survivors' annuity program.

This section would provide the same benefit regarding the FEHB program to surviving family (the spouse or unmarried dependent child under 22 years of age) of a Justice, judge, territorial judge, judge of the Court of Federal Claims, bankruptcy judge or full-time magistrate judge.

Mr. LEAHY. Mr. President, today, I am pleased to introduce a bill that would greatly improve the administration and efficiency of our Federal court system. The Federal Courts Improvement Act of 2004 is an attempt to assist our hard working Federal judiciary by replacing antiquated processes and bureaucratic hurdles with the necessary tools for the 21st century.

I thank my colleagues for joining Senator HATCH and me in supporting this bipartisan measure.

In recent years, the job of the Federal judge has changed considerably. Today, Federal judges at both the trial and appellate level are hearing more cases with fewer available judicial resources. We have a responsibility to pass legislation that helps them keep up with changing times and circumstances.

The judicial branch of Government occupies a place in the constitutional scheme of equal responsibility and importance as the Congress and the Presidency. Just like it is the judiciary's duty to mete out justice in a neutral and unbiased means, it is this branch's duty to provide the requisite tools so that the Federal judiciary can maintain its prominent place in the American system of Government.

For the last 20 years I have served on the Senate Judiciary Committee and I have worked hard to preserve a fair, independent and efficient judiciary. To

further this goal, this body has passed a number of important judicial reforms over the past decade. The legislation under consideration today, like those passed in recent years, assists the Federal judiciary in achieving its goals and fulfilling its constitutional duties. While I am pleased with many of the reforms that have been implemented in recent years, other necessary measures that have been considered have not been implemented.

For example, last year I introduced legislation that would have provided Federal judges with a substantial pay raise as an attempt to rectify the fact that Federal judges earn far less than their counterparts in the private sector. I feel that it is completely unreasonable that judges do not automatically receive an annual cost-of-living adjustment that nearly every other Federal employee receives. Chief Justice Rehnquist has observed that, "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." It was for these reasons that I was very disappointed that the legislation was not enacted after it was reported favorably by the Judiciary Committee. While I understand that we are now in a time of record deficits, we should not be so constrained as to jeopardize the independence of our Federal judiciary.

I am disappointed that the legislation introduced today does not seek to rectify the inadequacy of judicial pay. Nevertheless, it will assist the Federal judiciary by addressing some of its institutional inefficiencies and disparities. For example, this bill will strengthen the jury system, establish parity in judicial benefits, protect against identity theft, respond to changes in technology, and recognize the important role of magistrate judges in our Federal justice system. I am happy to respond to these requests made by the Judicial Conference of the United States.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2397. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, today I am introducing a bill with my colleague, Senator FEINSTEIN, to adjust the boundary of the John Muir National Historic Site. This bill, which is identical to legislation introduced in the House by Representative GEORGE MILLER, would allow the Park Service to obtain a small parcel of property to create a parking area for the John Muir National Historic Site. This would make access to the site much easier.

Naturalist John Muir lived in Martinez, CA, from 1890 until his death in 1914. While living in Martinez, Muir served as the first president and one of the founders of the Sierra Club, played a prominent role in the creation of several national parks, and wrote numerous articles and books on the importance of conservation. In 1964, John Muir's former residence became part of the National Park Service. Designated as a National Historic Site, John Muir's estate provides valuable open space in the San Francisco Bay area.

In 1988, Congress enacted legislation to expand the John Muir Historic Site. Included in this site expansion was a 3.3 acre parcel of land owned by the city of Martinez, which was donated by the city to the National Park Service. Following a survey conducted as part of the development of the General Management Plan, the Park Service discovered that a two-tenths acre triangle adjacent to the acquired parcel did not appear to have an owner.

Enactment of this legislation would allow the Park Service to either acquire the land, if an heir or owner is identified, or condemn the property if an heir or owner is not found. When the title to the land is clear, the Park Service wants to construct a parking area in order to meet the growing needs of the site users. This 9,500 square foot addition to the John Muir National Historic Site would allow the proposed parking area to accommodate school busses and provide 12 additional parking spaces.

This bill authorizes a noncontroversial boundary adjustment and is supported by Contra Costa County and the city of Martinez. I urge my colleagues to support this legislation.

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

S. 2398. A bill to designate the Federal building located at 324 Twenty-fifth Street in Ogden, Utah, as the James V. Hansen Building; to the Committee on Environment and Public Works.

Mr. HATCH. Mr. President, I am introducing legislation along with Senator BENNETT to designate the Federal building located at 324 Twenty-fifth Street in Ogden, Utah, as the James V. Hansen Federal Building.

I am pleased to introduce this measure today to honor my friend from Utah, former Congressman Jim Hansen. I am joined by my colleague Senator BENNETT, who has also worked extensively with Congressman Hansen on issues important to the people of Utah.

Congressman Hansen retired last year after serving in the United States House of Representatives, representing Utah's First Congressional District, for 22 years. Before his 11 terms in Congress, he served in the Utah State Legislature for 8 years, where he ascended to the role of speaker of the Utah House of Representatives. For 12 years, he served on the Farmington City Council. He is a veteran of the Korean

War and served in the United States Navy.

Congressman Hansen has served the people of Utah with great distinction in the House of Representatives. He served as the Chairman of the House Resources Committee, as a senior member on the Armed Services Committee, and as a member of the House Ethics Committee. He is one of the three founders of the Western Caucus and served as its chairman from 1988 to 1999.

While serving as the Chairman of the Resources Committee, Congressman Hansen guided hundreds of difficult and complex bills through the legislative process. He sponsored numerous pieces of legislation to protect land in Utah and the Arizona Strip, and designate wilderness lands in Wyoming and Montana.

Congressman Hansen proved to be an effective broker in the Congress, as he crafted numerous agreements that provided sensible policies to encourage multiple use of public lands, preservation of the environment, and sound economic principles. As the Resources Committee Chairman, Congressman Hansen facilitated compromises and negotiated many agreements among diverse parties.

Congressman Hansen also rose to the role of the ranking member of the House Armed Services Committee. He was instrumental in helping preserve Hill Air Force Base through three rounds of base closures. While on the Committee, he led the effort to stop President Clinton's attempt to transfer work being conducted at Hill Air Force Base to California. He came to be known as an expert leader on defense issues, and he has a distinguished reputation for speaking with authority on intricate military topics.

Congressman Hansen served longer than any member to date on the House Committee on Standards of Official Conduct. His colleagues in the House reappointed him three times, and in the third term he served as Chairman. When Hansen was a freshman in Congress, he worked with President Ronald Reagan to establish the Presidential Commission on Drunk Driving. In the first year of the program, the number of deaths resulting from drunk driving declined by 4,700.

Over the course of his life, Congressman Hansen has built a reputation as a decent, commonsense, hard-working public servant. He is respected by members on both sides of the aisle as a straightforward, rational lawmaker who works hard to reach sensible solutions.

Mr. President, it is only fitting that the Federal building in Ogden bear Congressman Hansen's name. He devoted time, energy, and talent to improving the State of Utah. The name of Jim Hansen will bring a level of trust, a level of fairness, and a level of understanding to all who enter this building. His name will continue to be synonymous with excellence in public service in Utah.

Congressman Hansen advocated what was best for his constituents and what was best for the Nation. I thank Congressman Hansen, and I wish him the best in the activities he chooses to pursue.

Senator BENNETT and I are pleased to introduce this companion legislation in the Senate. I note that Representative CANNON has introduced a companion bill which has been passed by the House of Representatives. I hope this measure will be approved by the Senate in short order.

By Mr. FITZGERALD (for himself and Mr. KENNEDY):

S. 2399. A bill to provide for the improvement of physical activity and nutrition and the prevention of obesity for all Americans; to the Committee on Health, Education, Labor, and Pensions.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Healthy Lifestyles Act of 2004 with Senator KENNEDY. This bill places the crafting of the Dietary Guidelines for Americans squarely on the shoulders of the independent Institute of Medicine of the National Academies of Sciences. This bill also establishes several grant programs to help curb the obesity epidemic that plagues more than one-third of Americans.

In the United States, approximately 300,000 of our citizens die each year as a result of being overweight or obese. This information becomes even more dire when you consider that 64 percent of adults and 13 percent of children and adolescents are overweight, according to the Centers for Disease Control and Prevention. More staggering, twice as many children and three times as many adolescents are characterized as overweight today as in 1980—when the Federal Government, through the U.S. Department of Agriculture, first published the Dietary Guidelines. In 1990, Congress took a larger role in the establishment of these Guidelines and passed legislation requiring the USDA and HHS to review, and, if necessary, revise the Guidelines every 5 years.

According to the CDC, in 1985, in no State in the union were more than 14 percent of the resident's obese, but in 2001, in every State but Colorado more than 15 percent of residents were obese. My own State of Illinois dramatically demonstrates this disturbing trend. According to CDC, in 1985, less than 10 percent of Illinois residents were obese. By 2001, between 20 and 24 percent of Illinois residents were obese.

Furthermore, according to the CDC, the medical expenses of the overweight and obese accounted for 9.1 percent of total U.S. medical expenditures in 1998 and may have reached as high as \$78.5 billion. Approximately half of these costs were paid by Medicaid and Medicare.

It is time to fix this dysfunctional system. By placing the IOM in charge of drafting the Dietary Guidelines, we can help to ensure that the Guidelines

are based upon unbiased, sound, scientific evidence rather than which organization has the greatest influence. When dealing with the health and welfare of Americans, we can expect no less.

Additionally, this measure directs the IOM to examine nutrition programs run by the Federal Government, an important step to discern whether USDA, HHS, and other Federal agencies are properly conducting nutrition research.

While many factors contribute to this growing health crisis, the problem, in part, may be attributed to a lack of nutrition and fitness information available to the public, especially among low-income groups. This bill will help our communities to a better job of educating Americans about proper nutrition and the serious risks associated with obesity. The Federal Government can fund all the research that it wants, but that research will do no good unless it is properly communicated to the public.

This legislation empowers schools, local and State governments, and employers, through grant programs, to establish obesity-prevention initiatives. We can only limit the prevalence of obesity in America by empowering the individual through grassroots and community programs to change their eating and exercise behaviors. Obesity is not only a preventable disease, it is a curable disease. By encouraging more physical activity and better eating habits, we can help reduce the size of waistbands in America and help curb heart disease, type II diabetes rates, and other obesity-related diseases.

In communities at risk for poor nutrition, this legislation provides grant funding to help promote the consumption of foods that are consistent with the Dietary Guidelines and to promote water as the main daily drink choice for people. The measure provides grants to train health professionals and health science students in identifying, preventing, and treating obesity-related conditions.

With 64 percent of the people in our country classified as overweight or obese, it is obvious that the Dietary Guidelines and Federal nutrition monitoring programs have failed. I thank Senator KENNEDY for joining me today to introduce the Healthy Lifestyles Act of 2004. We owe it to the American people to disseminate unbiased, sound, scientific nutrition information. I urge my colleagues to support this important piece of legislation.

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

S. 2399

*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 "Healthy Lifestyles Act of 2004".

#### SEC. 2. ACTIVITIES RELATING PHYSICAL ACTIVITY.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

##### "SEC. 3990. INCREASING PHYSICAL ACTIVITY.

"(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, the Secretary of Labor, and the Director of the Federal Highway Administration, shall establish and implement activities for the purpose of increasing physical activity in schools, worksites, and communities.

"(b) SCHOOLS.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary of Education shall award grants to public elementary and secondary schools for programs that support—

"(1) the provision of daily physical education for students in kindergarten through grade 12 through programs that are consistent with the Guidelines for Physical Activity as reported by Centers for Disease Control and Prevention and the American College of Sports Medicine and National Physical Education Standards;

"(2) the implementation of comprehensive school curricula and school-based physical activity programs that provide education about lifelong physical activity;

"(3) training for school personnel that provides the knowledge and skills needed to effectively teach lifelong physical activity; and

"(4) evaluations of school physical education programs and facilities at annual intervals to determine the extent to which national guidelines described in paragraph (1) are met.

"(c) WORKSITES.—The Director of the Centers for Disease Control and Prevention and the Secretary of Labor, shall award grants to eligible entities as determined by the Director, which may include labor organizations, trade associations, trade groups, and businesses for the establishment of projects that include—

"(1) the development of activity friendly worksites (which may include the provision of facilities for physical activity, accessible and attractive stairwells, walking trails, and supportive management practices) that encourage employee participation in physical activity;

"(2) the development of worksite wellness programs that improve physical activity by increasing the knowledge, attitudes, skills, and behaviors of employees; and

"(3) the development of employee incentive programs (such as cafeteria discounts, health club memberships, small cash bonuses, and time off) to increase the participation of employees in worksite health promotion programs that increase physical activity.

"(d) COMMUNITIES.—The Director of the Centers for Disease Control and Prevention, the Secretary of Transportation, and Secretary of the Interior shall award grants for the implementation and evaluation of activities that may include—

"(1) projects to design pedestrian zones and construct safe walkways and cycling paths;

"(2) projects that create greenways and open-space areas linking parks, nature preserves, and cultural or historic sites with each other and with populated areas such as residential communities and business locations;

"(3) initiatives to increase the use of walking and bicycling as a transportation mode by creating or enhancing informational outreach to parks or community recreation centers; and

"(4) community-wide campaigns designed to increase physical activity as part of

multicomponent efforts that include strategies such as support of self help groups, physical activity counseling, risk factor screening and education, and environmental or policy changes such as the creation of walking trails.

"(g) EVALUATION.—Not later than 2 years after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in increasing physical activity.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009."

#### SEC. 3. IMPROVING NUTRITIONAL INTAKE.

Section 301 of the The National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) is amended to read as follows:

##### "SEC. 301. DIETARY GUIDELINES.

"(a) IN GENERAL.—Not later than 3 months after the date of enactment of the Healthy Lifestyles Act of 2004, and at least every 5 years thereafter, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the development and publication of a report containing the 'Dietary Guidelines for Americans'.

"(b) GUIDELINES.—Each report under subsection (a) shall—

"(1) be complete within 1 year of the date on which the contract was entered into under such subsection for such report; and

"(2) contain—

"(A) an evaluation of scientific and medical knowledge relating to healthy diets and nutrition;

"(B) dietary guidelines for Americans, with specifications for different ages and other segments of the population as determined appropriate by the Institute of Medicine.

"(c) SUBMISSION.—The Institute of Medicine shall submit a final report under each contract under subsection (a) to the Secretary of Health and Human Services, appropriate committees of Congress, and the general public.

"(d) USE.—The Secretary of Health and Human Services shall ensure that dietary guidelines established under this section serve as the basis of any food, nutrition or health program conducted or operated by each Federal health agency.

"(e) FOOD GUIDE PYRAMID.—In accordance with the dietary guidelines published in the report under subsection (b), the Secretary shall publish revisions to the guide commonly known as the 'food guide pyramid' or any successor to such guide."

#### SEC. 4. IMPROVING THE USE OF DIETARY INFORMATION AND GUIDELINES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study and the making of recommendations concerning the implementation and dissemination of dietary information and nutrition guidelines.

(b) CONTENT.—The recommendations made under subsection (a) shall address the following:

(1) The implementation of nutrition guidelines and dietary information in Federal programs.

(2) The dissemination of nutrition guidelines and dietary information to the public.

(3) The coordination, collaboration, and integration of nutrition activities within and across the Federal agencies and programs.

(4) A means for ensuring scientific integrity in the implementation and dissemination of dietary information and nutrition guidelines.



(5) A means for evaluating the impact of nutrition guidelines and dietary information.

(6) Other issues determined appropriate by the Institute of Medicine.

(c) **SUBMISSION.**—Not later than 1 year after the date of enactment of this Act, the Institute of Medicine shall submit to the Secretary of Health and Human Services, the appropriate committees of Congress, and the public, a report that contains the findings of the study and recommendations under subsection (a).

(d) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—Not later than 1 year after the submission of the report under subsection (c), the Secretary of Health and Human Services, in collaboration with the Secretary of Agriculture, shall prepare and publish a plan relating to the strategy of the Secretary to implement the recommendations made pursuant to subsection (a).

(2) **PUBLIC COMMENT.**—The Secretary of Health and Human Services shall request public review and comment during the development of the plan under paragraph (1). The final plan shall describe the comments received and how comments were incorporated into the plan.

(3) **IMPLEMENTATION REPORTS.**—Not later than 3 years after the date of enactment of this Act, and biennially thereafter, the Secretary of Health and Human Services shall evaluate and report to Congress on the efforts of the Department of Health and Human Services to implement the recommendations made pursuant to subsection (a).

#### **SEC. 5. INCREASING THE INTAKE OF NUTRITIONAL FOODS.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 2, is further amended by adding at the end the following:

##### **“SEC. 399P. INCREASING THE INTAKE OF NUTRITIONAL FOODS.**

“(a) **IN GENERAL.**—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, and the Secretary of Agriculture, shall establish and implement activities to improve the consumption of nutritional foods (such as fruits and vegetables, and foods that are low in fat, sugar, and salt) in communities.

“(b) **COMMUNITIES.**—The Secretary, acting through the Director of the Centers of Disease Control and Prevention, shall award grants for projects that—

“(1) implement campaigns, in communities at risk for poor nutrition, that are designed to promote the intake of foods consistent with established dietary guidelines through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings;

“(2) implement campaigns, in communities at risk for poor nutrition, that promote water as the main daily drink choice through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings;

“(3) conduct outreach to commercial food establishments, grocery stores, and other food suppliers, to increase the availability and accessibility of healthy foods and beverages;

“(4) partner with national programs that provide parents and mentors with the skills to help guide and influence healthy meals and snack selections for children and adolescents; and

“(5) partner with national afterschool and summer programs that provide children with the education and skills needed to make healthy meal and snack selections.

“(c) **HEALTH PROFESSIONALS.**—The Secretary, acting through the Administrator of

the Health Resources and Services Administration, shall award grants to—

“(1) support the development, implementation, and evaluation of curricula to educate and train health professionals about effective nutrition education and counseling strategies for obese individuals and parents of overweight children, with emphasis on the Dietary Guidelines for Americans or other nationally accepted standards; and

“(2) use information technology to develop, implement, and evaluate the effectiveness of dietary counseling in health care settings.

“(d) **EVALUATION.**—Not later than 12 months after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving the intake of nutritional foods.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.

#### **SEC. 6. FEDERAL OBESITY PREVENTION AND CONTROL ACTIVITIES.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 5, is further amended by adding at the end the following:

##### **“SEC. 399Q. FEDERAL OBESITY PREVENTION AND CONTROL ACTIVITIES.**

“(a) **IN GENERAL.**—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall directly or through a grant to an eligible entity, conduct, support, and promote the coordination of research, investigations, demonstrations, training, and studies relating to the prevention, control, and surveillance of obesity.

“(b) **DUTIES OF THE SECRETARY.**—The activities of the Secretary under subsection (a) shall include—

“(1) the collection, publication, and analysis of data on the prevalence and incidence of obesity;

“(2) the development of uniform data sets for public health surveillance and clinical quality improvement activities;

“(3) the identification of evidence-based and cost-effective best practices for the prevention, diagnosis, management, and treatment of obesity;

“(4) research, including research on behavioral interventions to prevent obesity and on other evidence-based best practices relating to obesity prevention, diagnosis, management, and care; and

“(5) demonstration projects, including community-based programs of obesity prevention and control, and similar collaborations with academic institutions, hospitals, health insurers, researchers, health professionals, and nonprofit organizations.

“(c) **TRAINING AND TECHNICAL ASSISTANCE.**—With respect to the planning, development, and operation of any activity carried out under subsection (a), the Secretary may provide training, technical assistance, supplies, equipment, or services, and may assign any officer or employee of the Department of Health and Human Services to a State or local health agency, or to any public or nonprofit entity designated by a State health agency, in lieu of providing grant funds under this section.

“(d) **OBESITY PREVENTION AND CONTROL RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION CENTERS.**—The Secretary shall provide additional grant support under this section for research projects at the Centers for Prevention Research of the Centers for Disease Control and Prevention to encourage the expansion of research port-

folios at the Centers for Prevention Research to include obesity specific research activities related to the prevention and control of obesity.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.”.

#### **SEC. 7. STATE OBESITY PREVENTION AND CONTROL ACTIVITIES.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 6, is further amended by adding at the end the following:

##### **“SEC. 399R. STATE OBESITY PREVENTION AND CONTROL PROGRAMS.**

“(a) **IN GENERAL.**—The Secretary shall award grants to eligible entities to provide support for comprehensive obesity prevention and control programs and to enable such entities to provide public health surveillance, prevention, and control activities related to obesity.

“(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section, an entity shall—

“(1) be a State or an Indian tribe; and

“(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a comprehensive obesity control and prevention plan that—

“(A) is developed with the advice of stakeholders from the public, private, and nonprofit sectors that have expertise relating to obesity prevention, control, and treatment;

“(B) is intended to reduce the morbidity of obesity, with priority on preventing and controlling obesity in at-risk populations and reducing disparities in obesity prevention, diagnosis, management, and quality of care in underserved populations; and

“(C) describes the obesity-related services and activities to be undertaken or supported by the entity.

“(c) **USE OF FUNDS.**—An eligible entity shall use amounts received under a grant awarded under subsection (a) to conduct, in a manner consistent with the comprehensive obesity prevention and control plan submitted by the entity in the application under subsection (b)(2)—

“(1) public health surveillance and epidemiological activities relating to the prevalence of obesity and assessment of disparities in obesity prevention, diagnosis, management, and care; and

“(2) public information and education programs.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.”.

#### **SEC. 8. STATE OBESITY PREVENTION AND CONTROL ACTIVITIES.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 7, is further amended by adding at the end the following:

##### **“SEC. 399S. COMPREHENSIVE OBESITY PREVENTION ACTION GRANTS.**

“(a) **IN GENERAL.**—The Secretary shall award grants on a competitive basis to eligible entities to enable such eligible entities to assist in the implementation of a national strategy for obesity prevention and control.

“(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section, an entity shall—

“(1) be a national public or private nonprofit entity; and

“(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a description of how funds received

under a grant awarded under this section will—

“(A) supplement or fulfill unmet needs identified in the comprehensive obesity prevention and control plan of a State or Indian tribe; and

“(B) otherwise help achieve the goals of an obesity prevention strategic plan designated by the Secretary.

“(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to carry out programs for preventing and controlling obesity in at-risk populations or reducing disparities in underserved populations.

“(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant awarded under subsection (a) for 1 or more of the following purposes:

“(1) To expand the availability of physical activity programs designed specifically for people with obesity.

“(2) To provide awareness education to patients, family members, and health care providers, to help such individuals recognize risk factors for obesity, and to address the control and prevention of obesity.

“(3) To decrease the long-term consequences of obesity by making information available to individuals with regard to obesity prevention.

“(4) To provide information on nutrition education programs with regard to preventing or mitigating the impact of obesity.

“(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such grant that includes an analysis of increased utilization and benefit of public health programs relevant to the activities described in subsection (d).

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.”

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FITZGERALD in introducing the Healthy Lifestyles Act. This important bill will give families greater access to practical information on nutrition and physical activity and enable Americans of all ages, especially the young, to live healthier, fitter, and longer lives.

Two-thirds of our citizens are overweight. The cost of diseases associated with obesity has been estimated at \$117 billion each year. Physical inactivity and unhealthy eating, the two primary causes, are responsible for at least 300,000 preventable deaths each year in the United States, and they increase the risk of many chronic diseases, including cancer, diabetes and cardiovascular diseases.

Environments that promote poor nutrition and sedentary lifestyles are major causes of this public health epidemic. The numerous messages and advertisements from various sources about what and how much to eat have produced serious public confusion about good nutrition. Many citizens would like to be more active but live in ways that discourage exercise and vigorous lifestyles that involve walking, bicycling, or other similar activities.

The Healthy Lifestyles Act is a major step in addressing these challenges. It establishes a partnership be-

tween the Department of Health and Human Services and the Institute of Medicine to conduct a comprehensive assessment of what is being done by whom on nutrition guidelines and education. The Institute of Medicine is eminently respected for its scientifically sound opinions on health issues. Its study will provide indispensable oversight for the development and dissemination of national nutrition guidelines, and an independent impartial source of nutrition information for the public.

The legislation also supports community outreach programs to support healthy nutrition and physical activity. Communities will be able to conduct campaigns encouraging consumption of healthy foods, and after-school programs will be available to encourage exercise and good nutrition for children. Support will be available for each state for obesity prevention and control programs, to encourage coordinated ongoing efforts to enhance awareness of guidelines for healthy eating and activity.

Finally, the legislation assures that the information will be widely available to the public and to health professionals. State-of-the-art curricula will be developed to educate and train professionals about nutrition education and counseling.

The Healthy Lifestyles Act is only a first step in preventing unhealthy nutrition environments by ensuring consistency and high quality in dietary information, and improving physical activity in our communities. Working together we can halt this worsening public health epidemic. I commend Senator FITZGERALD for his leadership, and I urge our colleagues in Congress to support the Healthy Lifestyles Act.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 356—CON-DEMNING THE ABUSE OF IRAQI PRISONERS AT ABU GHRAIB PRISON, URGING A FULL AND COMPLETE INVESTIGATION TO ENSURE JUSTICE IS SERVED, AND EXPRESSING SUPPORT FOR ALL AMERICANS SERVING NOBLY IN IRAQ

Mr. FRIST (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr.

GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

#### S. RES. 356

Whereas the United States was founded on the principles of representative government, the rule of law, and the unalienable rights of individuals;

Whereas those principles are the birthright of all individuals and the fulfillment of those principals in Iraq would benefit the people of Iraq, the people of the Middle East, and the people of the United States;

Whereas the vast majority of Americans in Iraq are serving courageously and with great honor to promote a free and stable Iraq and through such service are promoting the values and principles that the people of the United States hold dear;

Whereas Americans serving abroad throughout the history of the United States, both military and civilian, have established a reputation for setting the highest standards of personal, professional, and moral conduct;

Whereas in January 2004, a member of the United States Armed Forces reported alleged abuses perpetrated in Abu Ghraib prison during November and December 2003;

Whereas an inquiry into those alleged abuses was ordered in January 2004, and that inquiry is reported to have found numerous incidents of criminal abuses by a small number of Americans based in Iraq;

Whereas the reaction to the alleged abuses is having a negative impact on the United States efforts to stabilize and reconstruct Iraq and to promote democratic values in the Middle East and could affect the security of the United States Armed Forces serving abroad;

Whereas Congress was not informed about the extent of the alleged abuses until reports about the abuses became public through the media;

Whereas success in the national security policy of the United States demands regular communication between the President, the agencies and departments of the executive branch, Congress, and the people of the United States;

Whereas, in an interview on May 5, 2004, the President stated “First, people in Iraq must understand that I view those practices as abhorrent. They must also understand that what took place in that prison does not represent America that I know. The America I know is a compassionate country that believes in freedom. The America I know cares about every individual. The America I know has sent troops into Iraq to promote freedom—good, honorable citizens that are helping the Iraqis every day.”;

Whereas in that interview the President further stated “It’s also important for the