of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3438

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 3438 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

At the request of Mr. BUNNING, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Missouri (Mr. BOND), the Senator from California (Mrs. FEINSTEIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3438 proposed to S. 2400, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2523. A bill to exempt the Great Plains Region and Rocky Mountain Region of the Bureau of Indian Affairs from trust reform reorganization pending the submission of agency-specific reorganization plans; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, today Senator JOHNSON and I are introducing a bill that reflects the concerns of tribal leaders about the lack of progress on trust management reform and their dissatisfaction with the Department of the Interior's reorganization plan to deal with it. It offers an alternative to the Department's approach that tribal chairmen in the Great Plains and Rocky Mountain regions believe will better serve their members.

Trust reform is a particularly vexing issue that has confounded Federal policymakers and frustrated Native Americans for years. But the bottom line is that when the United States Government divided Indian lands in 1887, it made a commitment, through solemn treaty obligations, to hold those lands in trust, to manage them wisely, and to give any income from the sale or lease of the land to its Indian owners. It has never fulfilled that promise.

The Indian trust has been so badly mismanaged, for so long, by Administrations of both political parties, that no one today has any idea how much money should even be in the trust—let alone, how much is owed to individual account holders and to tribes, and for what. Meanwhile, too many individual and tribal community needs go unmet in Indian Country because of the lack of resources. That is the contradiction that simply cannot be allowed to continue.

I know that the Interior Department has gone to great efforts to reform its internal structure to get a handle on the administration of the Indian trust fund. And I appreciate that Interior officials believe that their reorganization plan has been shaped, at least in part, by ''listening sessions'' it held in Indian Country. Yet, the fact remains that tribal leaders around the country do not accept the premise that those meetings represented true consultation, and they do not accept the Department's reorganization plan as a legitimate response to mismanagement of the Indian trust. A number of tribal leaders have told me that the Department's ''listening sessions'' were hardly that, but could more accurately be described as a notification of how the Department would proceed.

Tribal leaders in my State believe strongly that the Department's reorganization plan moves in the wrong direction. Instead of integrating the trust and ''non-trust'' functions of the Department, it separates those functions even further. They also believe the plan ignores the unique character of each region's challenges. The Great Plains Region, for example, has more Individual Indian Money Account holders than any other region and holds 33 percent of the nation's tribal trust assets.

I acknowledge that this is a difficult problem and that some in the Administration sincerely desire to solve the trust management problem in a way that ensures that stakeholders receive what is due them in a timely manner. I also greatly appreciate the attention devoted to this matter. However, I do believe some of that attention has been misdirected. And, given the recent history of the trust reform debate, I have no credible answer to tribal leaders' lament that the Department appears more interested in undercutting the Cobell v. Norton lawsuit than in considering the opinion of tribes in South Dakota or the rest of Indian Country.

Since the Department formally unveiled its reorganization proposal earlier last year, numerous questions have been raised about exactly how this reorganization, which is currently being advanced administratively, will improve the present trust fund management and accounting procedures.

What are the role and responsibilities of the Special Trustee's trust officers who will be dispatched throughout Indian Country, and how will these positions relate to the local and regional BIA offices? Is this a duplication of services?

Who has oversight over these positions, and what accountability mechanism is in place to monitor their performance? What are the lines of authority?

Will Indian preference apply to any new positions that are created by the reorganization?

Why is the reorganization effort affecting the Office of Indian Education Programs when the court mandate affects only trust fund management reform? Does the plan violate the BIA amendments to the Elementary and Secondary Education Act reauthorization?

The list of questions is long, and tribal leaders and their constituents deserve answers. Those answers cannot be gleaned from the 18 pages of organizational charts the Department has provided as a rationale for its plan to reorganize the BIA and the Office of the Special Trustee.

This past February tribal leaders from nearly every Indian Nation in America traveled to Washington for a meeting of the National Congress of American Indians to discuss a variety of issues, including trust reform. They expressed unanimous opposition to the Department of Interior's reorganization efforts, and their urgent plea to Congress was that the federal government work with Native people to find an honorable and equitable solution to the Indian trust fund dispute.

In March, in an appearance before the Senate Indian Affairs Committee, Tex Hall, Chairman of the Three Affiliated Tribes of Fort Berthold and President of the National Congress of American Indians, testified that tribal leaders do not believe that their views are reflected in the Department's trust reorganization plan. And the Chairman of the Lower Brule Sioux Tribe, Michael Jandreau, a member of the BIA-Tribal Task Force on trust reform, told the Committee that ''meaningful involvement [of] and input from tribal leadership'' and the failure by the federal government to recognize ''obvious treaty obligations'' are contributing to the inability to reach consensus on trust reform.

This disagreement between Indian Country and Washington runs deep and cannot be solved by Interior Department officials simply re-drawing lines on organizational charts. The search for resolution must include real, meaningful, and ongoing consultation between Department officials and the tribes and tribal leaders. After all, we are talking about Indian people's money.

At the March Committee hearing, Harold Frazier, testifying in his capacities as Chairman of the Cheyenne River Sioux Tribe and as Chairman of the Great Plains Tribal Chairman's Association, offered both a critique of the Department's reorganization plan and an alternative to it. He emphasized that a majority of Indian tribes opposed the reorganization, not just because it was implemented without ''meaningful tribal consultation,'' but also because ''a one-size-fits-all approach to trust management reform is certain to fail.'' While acknowledging that some aspects of reform, such as land consolidation and improved record-keeping, are better managed at the national level, Chairman Frazier pointed out that basic services provided at the agency level are the key to the most efficient utilization of trust assets and that these resource decisions are best made at the local level

so they may be adapted to serve tribal beneficiaries' unique needs. And he offered the Great Plains Regional Proposal for Trust Reform as an alternative to the Department's reorganization plan.

Senator JOHNSON and I believe that Chairman Frazier has made a constructive contribution to breaking the trust impasse, and the bill we are introducing today codifies the Great Plains Regional Proposal for Trust Reform, as expanded by the inclusion of the Rocky Mountain Regional Tribes. It is based on the principle that differences among tribes in population, employment, revenue base, and even geographic location effect the type of trust reform suitable for each area, and it has precedent in a provision of the FY 2004 Interior Appropriations bill, Section 139, that exempted certain self-governance tribes from the Interior reorganization plan.

Our proposal exempts the Great Plains and Rocky Mountain tribes from the Department of the Interior's trust reform reorganization, excluding current efforts to reform Indian probate and encourage land consolidation, thereby precluding the Department from reorganizing the BIA at the agency level. It also stipulates that any funds appropriated to accomplish trust reform at the agency level within the Great Plains and Rocky Mountain Regions can be expended only under plans developed by local tribes in cooperation with, and with the approval of, the Department of the Interior. And it authorizes $200,000 for the Great Plains Region and $200,000 for the Rocky Mountain Region to be used for the development of agency-specific reorganization plans.

The legislation Senator JOHNSON and I are introducing today is not intended to end the trust reform debate. We still do not have an historical accounting of trust income; we still do not know if certain records exist; and we still do not know how much the United States of America owes to Indian people and to the Tribes. Neither is the legislation intended to limit other regions searching for their own solutions; to the contrary, we and the tribes of the Great Plains and Rocky Mountain regions respect other regions' rights to develop proposals that meet their own unique needs. But we do hope our proposal will help refocus the debate in a more constructive, substantive, cost-effective manner, acknowledging that the tribes know what is best for them and should be consulted—in a meaningful way—and play a key role in this process.

The tribes understand that the Interior and Treasury Departments, the BIA, and the Special Trustee for American Indians must be their allies in the search for a solution. But friction over reorganization has diverted attention from the more fundamental challenge of providing a full and fair accounting to Indian people, and ultimately paying the money that is owed to them and the tribes.

Now that the Department has been given authorization to proceed administratively with its reorganization plan, I hope the Department will submit to Congress a legislative proposal on how to address the underlying, substantive problem that we have been wrestling with for far too long. I also hope the Department will embrace the pilot program Senator JOHNSON and I are proposing today, with the support of the Great Plains and Rocky Mountain Tribal Chairmen's Associations.

In closing, I think it is extremely important to reflect on two central facts about the Indian trust debate as we consider the proposed reorganization of the BIA and the OST, and the Great Plains and Rocky Mountains Tribal Chairmen's Associations' ideas for localizing trust reform.

First, residents of Indian Country have been victimized for generations by persistent mismanagement of trust assets by the federal government. Far too many families for far too long have been denied trust assets to which they are entitled because of Federal mismanagement. And this situation has adversely affected their quality of life.

Second, frustration with the Federal Government's failure to come to grips with this problem has not only led to litigation (Cobell v. Norton), it has also solidified the tribes' determination to be part of the solution to the problem. Effective trust management reform will remain an elusive goal if the tribes are not full participants in this exercise.

We need to recognize the human dimension and consequences of trust mismanagement, and we need to accept that tribal leaders must be equal partners in its reform. The bottom line is that the tribes do not have the resources they need to adequately address the full range of socio-economic challenges they face. In the case of trust reform, the issue is not simply boxes on an organizational chart, but lives that literally hang in the balance.

Yesterday I met with Chairman Frazier, Chairman Jandreau, and Oglala Sioux Tribal President John Yellow Bird Steele. Their frustrations with the Department's reorganization proposal could be summed up with the comments made by one chairman and echoed by the other two: ''They left us out of the equation. We have many of the records, and we know what adjustments need to be made at the agency level to address our local needs. Whether it's historical accounting or reorganization, we have to be part of the solution.''

It's a concept so simple that it should go without saying, but the Administration has not adhered to it. But we still have a chance to turn that around. The tribes of the Dakotas, Nebraska, Montana, and Wyoming have stepped up to the plate. They aren't just complaining about the Administration's proposal; they're offering their own. They've developed regional proposals to fit their unique regional needs. We should respect their judgment, and the judgment of other regions that will undoubtedly follow with their own proposals.

The history of trust management has been a travesty, and, without a concerted and open-minded effort to address the issue, the future will not be any better. The United States has a fiduciary responsibility to Indian Country based on numerous treaty obligations. We must satisfy our obligations. We must work together to craft a solution to the underlying trust problem. Let's start by granting the Great Plains and Rocky Mountain Regions greater autonomy to fashion their own trust solutions.

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

S. 2523

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

SECTION 1. APPLICABILITY OF TRUST REFORM REORGANIZATION TO THE GREAT PLAINS REGION AND ROCKY MOUNTAINS REGION OF THE BUREAU OF INDIAN AFFAIRS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''Agency'' means an Agency of the Bureau of Indian Affairs within a Region.

(2) REGION.—The term ''Region'' means each of the Great Plains Region and the Rocky Mountain Region of the Bureau of Indian Affairs.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) NO REORGANIZATION.—Notwithstanding any implementation of the trust reorganization plan for the Bureau of Indian Affairs in fiscal year 2004 or 2005, the Secretary shall not reorganize the Bureau at the Agency level in a Region except with respect to the reform of probate procedure and efforts to encourage land consolidation.

(c) TRUST MANAGEMENT INFRASTRUCTURE.—The Secretary shall not impose trust management infrastructure reforms on, or alter, the existing trust resource management system of an Agency unless the reforms are expressly agreed to by the Indian tribe covered by the Agency.

(d) AGENCY PLANS.—

(1) IN GENERAL.—Any funds made available to accomplish trust reform at the Agency level shall be expended in accordance with a plan developed by the Indian tribe covered by the Agency, in cooperation with the Secretary and approved by Act of Congress.

(2) TIMING.—An Agency shall submit the Agency plan to the Secretary not later than 180 days after the date on which funds are made available under subsection (f).

(e) REPORT.—

(1) IN GENERAL.—After submission to the Secretary of an Agency plan under subsection (d)(2), the Secretary shall—

(A) prepare a report that includes findings and recommendations of the Secretary concerning the Agency plan; and

(B) provide the Indian tribe covered by the Agency 60 days in which to submit comments regarding the findings and recommendations of the Secretary.

(2) SUBMISSION TO CONGRESS.—After receiving comments of the Indian tribe under paragraph (1)(B), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Appropriations and the Committee on Resources of the House of Representatives—

(A) the Agency plan;

(B) the report of the Secretary; and
(C) the comments of the Indian tribe.
(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $200,000 for each Region, to be made available to the Agencies for use in developing an Agency plan under subsection (d).

By Mr. GRAHAM of Florida:

S. 2524. A bill to amend title 38, United States Code, to improve the provision of health care, rehabilitation, and related services to veterans suffering from trauma relating to a blast injury, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM. Mr. President, today I introduce legislation to establish a Department of Veterans Affairs War-Related Blast Injury Center. The need for this type of research and treatment facility has become especially pressing in light of the staggering number of veterans returning from the battles raging abroad.

Blasts from such weapons as artillery, mortar shells, and roadside bombs—improvised explosives that blow debris such as broken glass, nails, and gravel upward into the face—have become the most common mechanism of injury in modern warfare. The resulting injuries include those to the lungs, inner ear, limbs, and, quite commonly, the head. In addition to the serious physical wounds, deep psychological wounds also result, including post-traumatic stress disorder.

Despite the fact that injuries from explosive devices currently make up the majority of combat casualties and the most severe, there has never been an established medical program to evaluate, treat, and track the short- and long-term consequences of these specific injuries. This bill is an important first step toward correcting this deficiency. It establishes at least one War-Related Blast Injury Center within VA that would provide comprehensive and specialized rehabilitation programs, as well as targeted education and outreach programs and research initiatives.

The Center would be formed from a collaboration between the Department of Veterans Affairs, (VA) and the Department of Defense, promoting cooperation between the two agencies to reach their respective goals regarding the care of our military personnel. One of the Center's main purposes would be to fill in the gap that now exists in the evidence base for treating victims of blast injuries. Through its specialized evaluation and treatment of the polytrauma that results from blast injuries, the Center would facilitate the identification of trends in those suffering from this trauma and go a long way in determining innovative, more effective treatment approaches.

In addition to its comprehensive rehabilitation program and the conduct of research, the Center will also provide education and training to health care personnel across the care continuum, including first responders, acute-care providers, and rehabilitation staff. It will also develop improved models and systems for the furnishing of blast injury services by VA.

While my legislation does not designate a site for the Center, I mention with pride the work being done at the Tampa VA Medical Center (VAMC) in Florida. The Tampa VAMC has an exceptional Physical Medicine and Rehabilitation (PM&R) Service that serves the largest number of veterans in the Nation. The Spinal Cord Injury, Amputee, and Traumatic Brain Injury Programs are not only VA's largest, but they have also been recognized as providing the highest quality of care in VA by their designation as Clinical Centers of Excellence. The PM&R Service utilizes an interdisciplinary team for patient care that includes physicians, therapists, audiologists, neuropsychologists, and social workers. Among them, this wide-ranging medical staff has access to a broad spectrum of medical and support services to best treat their patients.

In addition, this outstanding hospital serves as one of seven lead centers comprising the Defense/Veterans Brain Injury Center, a cooperative treatment and research program in traumatic brain injury. It also established a Gulf War Program in 1999 and in the past year created a Blast Injury Program. For all these reasons, the Tampa VAMC would serve as an excellent site for a War-Related Blast Injury Center.

An April 2004 article in The Washington Post detailed the experiences of combat surgeons in Iraq currently caring for the heroic men and women serving there. These doctors described their experiences treating an overwhelming flow of soldiers with wounds that probably would have been fatal in previous wars. Increasingly, these wounds involve severe damage to the head and eyes and often leave soldiers brain damaged, blind, or both. This article paints a clear picture of the injuries our soldiers in Iraq are subjected to and must deal with upon their return. I ask unanimous consent that the text of The Washington Post article be printed in the RECORD following this statement.

In addition, a recent update by VA's Physical Medicine and Rehabilitation National Program Office revealed over a 60 percent increase in rehabilitation patients in 2003 compared to 2002. This means that there were 215 additional brain injury patients and 423 more amputee patients. This sizable increase speaks to the great need for the War-Related Blast Injury Center.

This past April, more than 900 soldiers and Marines were wounded in Iraq, more than twice the number wounded in October of last year, the previous high. On May 2, in a tragic event that hit close to home, 5 reservists from the Jacksonville-based Seabee battalion were killed in a mortar attack in Iraq and an additional 30 suffered injuries resulting from the blast. The Jacksonville-based Seabees were in Iraq to do humanitarian work such as fixing electrical and water systems and sewage problems. These brave men epitomized American courage and selflessness. A War-Related Blast Injury Center would serve to care for servicemembers like the Seabees who suffer this type of horrific wound.

After all that these courageous, selfless soldiers sacrifice and suffer in battle, we owe them a place where they may receive the treatment necessary to mend their wounds, both physical and mental.

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

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

[From the Washington Post, April 27, 2004]

THE LASTING WOUNDS OF WAR; ROADSIDE BOMBS HAVE DEVASTATED TROOPS AND DOCTORS WHO TREAT THEM

(By Karl Vick)

The soldiers were lifted into the helicopters under a moonless sky, their bandaged heads grossly swollen by trauma, their forms silhouetted by the glow from the row of medical monitors laid out across their bodies, from ankle to neck.

An orange screen atop the feet registered blood pressure and heart rate. The blue screen at the knees announced the level of postoperative pressure on the brain. On the stomach, a small gray readout recorded the level of medicine pumping into the body. And the slender plastic box atop the chest signaled that a respirator still breathed for the lungs under it.

At the door to the busiest hospital in Iraq, a wiry doctor bent over the worst-looking case, an Army gunner with coarse stitches holding his scalp together and a bolt protruding from the top of his head. Lt. Col. Jeff Poffenbarger checked a number on the blue screen, announced it dangerously high and quickly pushed a clear liquid through a syringe into the gunner's bloodstream. The number fell like a rock.

''We're just preparing for something a brain-injured person should not do two days out, which is travel to Germany,'' the neurologist said. He smiled grimly and started toward the UH–60 Black Hawk thwump-thwumping out on the helipad, waiting to spirit out of Iraq one more of the hundreds of Americans wounded here this month.

While attention remains riveted on the rising count of Americans killed in action—more than 100 so far in April—doctors at the main combat support hospital in Iraq are reeling from a stream of young soldiers with wounds so devastating that they probably would have been fatal in any previous war.

More and more in Iraq, combat surgeons say, the wounds involve severe damage to the head and eyes—injuries that leave soldiers brain damaged or blind, or both, and the doctors who see them first struggling against despair.

For months the gravest wounds have been caused by roadside bombs—improvised explosives that negate the protection of Kevlar helmets by blowing shrapnel and dirt upward into the face. In addition, firefights with guerrillas have surged recently, causing a sharp rise in gunshot wounds to the only vital area not protected by body armor.

The neurosurgeons at the 31st Combat Support Hospital measure the damage in the number of skulls they remove to get to the injured brain inside, a procedure known as a craniotomy. ''We've done more in eight

weeks than the previous neurosurgery team did in eight months,'' Poffenbarger said. ''So there's been a change in the intensity level of the war.''

Numbers tell part of the story. So far in April, more than 900 soldiers and Marines have been wounded in Iraq, more than twice the number wounded in October, the previous high. With the tally still climbing, this month's injuries account for about a quarter of the 3,864 U.S. servicemen and women listed as wounded in action since the March 2003 invasion.

About half the wounded troops have suffered injuries light enough that they were able to return to duty after treatment, according to the Pentagon.

The others arrive on stretchers at the hospitals operated by the 31st CSH. ''These injuries,'' said Lt. Col. Stephen M. Smith, executive officer of the Baghdad facility, ''are horrific.''

By design, the Baghdad hospital sees the worst. Unlike its sister hospital on a sprawling air base located in Balad, north of the capital, the staff of 300 in Baghdad includes the only ophthalmology and neurology surgical teams in Iraq, so if a victim has damage to the head, the medevac sets out for the facility here, located in the heavily fortified coalition headquarters known as the Green Zone.

Once there, doctors scramble. A patient might remain in the combat hospital for only six hours. The goal is lightning-swift, expert treatment, followed as quickly as possible by transfer to the military hospital in Landstuhl, Germany.

While waiting for what one senior officer wearily calls ''the flippin' helicopters,'' the Baghdad medical staff studies photos of wounds they used to see once or twice in a military campaign but now treat every day. And they struggle with the implications of a system that can move a wounded soldier from a booby-trapped roadside to an operating room in less than an hour.

''We're saving more people than should be saved, probably,'' Lt. Col. Robert Carroll said. ''We're saving severely injured people. Legs. Eyes. Part of the brain.''

Carroll, an eye surgeon from Waynesville, Mo., sat at his desk during a rare slow night last Wednesday and called up a digital photo on his laptop computer. The image was of a brain opened for surgery earlier that day, the skull neatly lifted away, most of the organ healthy and pink. But a thumb-sized section behind the ear was gray.

''See all that dark stuff? That's dead brain,'' he said. ''That ain't gonna regenerate. And that's not uncommon. That's really not uncommon. We do craniotomies on average, lately, of one a day.''

''We can save you,'' the surgeon said. ''You might not be what you were.''

Accurate statistics are not yet available on recovery from this new round of battlefield brain injuries, an obstacle that frustrates combat surgeons. But judging by medical literature and surgeons' experience with their own patients, ''three or four months from now 50 to 60 percent will be functional and doing things,'' said Maj. Richard Gullick.

''Functional,'' he said, means ''up and around, but with pretty significant disabilities,'' including paralysis.

The remaining 40 percent to 50 percent of patients include those whom the surgeons send to Europe, and on to the United States, with no prospect of regaining consciousness. The practice, subject to review after gathering feedback from families, assumes that loved ones will find value in holding the soldier's hand before confronting the decision to remove life support.

''I'm actually glad I'm here and not at home, tending to all the social issues with all these broken soldiers,'' Carroll said.

But the toll on the combat medical staff is itself acute, and unrelenting.

In a comprehensive Army survey of troop morale across Iraq, taken in September, the unit with the lowest spirits was the one that ran the combat hospitals until the 31st arrived in late January. The three months since then have been substantially more intense.

''We've all reached our saturation for drama trauma,'' said Maj. Greg Kidwell, head nurse in the emergency room.

On April 4, the hospital received 36 wounded in four hours. A U.S. patrol in Baghdad's Sadr City slum was ambushed at dusk, and the battle for the Shiite Muslim neighborhood lasted most of the night. The event qualified as a ''mass casualty,'' defined as more casualties than can be accommodated by the 10 trauma beds in the emergency room.

''I'd never really seen a 'mass cal' before April 4,'' said Lt. Col. John Xenos, an orthopedic surgeon from Fairfax. ''And it just kept coming and coming. I think that week we had three or four mass cals.''

The ambush heralded a wave of attacks by a Shiite militia across southern Iraq. The next morning, another front erupted when Marines cordoned off Fallujah, a restive, largely Sunni city west of Baghdad. The engagements there led to record casualties.

''Intellectually, you tell yourself you're prepared,'' said Gullick, from San Antonio. ''You do the reading. You study the slides. But being here . . . .'' His voice trailed off.

''It's just the sheer volume.''

In part, the surge in casualties reflects more frequent firefights after a year in which roadside bombings made up the bulk of attacks on U.S. forces. At the same time, insurgents began planting improvised explosive devices (IEDs) in what one officer called ''ridiculous numbers.''

The improvised bombs are extraordinarily destructive. Typically fashioned from artillery shells, they may be packed with such debris as broken glass, nails, sometimes even gravel. They're detonated by remote control as a Humvee or truck passes by, and they explode upward.

To protect against the blasts, the U.S. military has wrapped many of its vehicles in armor. When Xenos, the orthopedist, treats limbs shredded by an IED blast, it is usually ''an elbow stuck out of a window, or an arm.''

Troops wear armor as well, providing protection that Gullick called ''orders of magnitude from what we've had before. But it just shifts the injury pattern from a lot of abdominal injuries to extremity and head and face wounds.''

The Army gunner whom Poffenbarger was preparing for the flight to Germany had his skull pierced by four 155mm shells, rigged to detonate one after another in what soldiers call a ''daisy chain.'' The shrapnel took a fortunate route through his brain, however, and ''when all is said and done, he should be independent. . . . He'll have speech, cognition, vision.''

On a nearby stretcher, Staff Sgt. Rene Fernandez struggled to see from eyes bruised nearly shut.

''We were clearing the area and an IED went off,'' he said, describing an incident outside the western city of Ramadi where his unit was patrolling on foot.

The Houston native counted himself lucky, escaping with a concussion and the temporary damage to his open, friendly face. Waiting for his own hop to the hospital plane headed north, he said what most soldiers tell surgeons: What he most wanted was to return to his unit.

S. 2524

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

SECTION 1. CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON BLAST INJURIES OF VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 7327. Centers for research, education, and clinical activities on blast injuries

''(a) PURPOSE.—The purpose of this section is to provide for the improvement of the provision of health care services and related rehabilitation and education services to eligible veterans suffering from multiple traumas associated with a blast injury through—

''(1) the conduct of research to support the provision of such services in accordance with the most current evidence on blast injuries;

''(2) the education and training of health care personnel of the Department; and

''(3) the development of improved models and systems for the furnishing of services by the Department for blast injuries.

''(b) ESTABLISHMENT.—(1) The Secretary shall establish and operate at least one, but not more than three, centers for research, education, and clinical activities on blast injuries.

''(2) Each center shall function as a center for—

''(A) research on blast injury to support the provision of services in accordance with the most current evidence on blast injuries, with such research to specifically address injury epidemiology and cost, functional outcomes, blast injury taxonomy and measurement system, and longitudinal outcomes;

''(B) the development of a rehabilitation program for blast injuries, including referral protocol, post-acute assessment, and coordination of comprehensive treatment services;

''(C) the development of protocols to optimize linkages between the Department and the Department of Defense on matters relating to research, education, and clinical activities on blast injuries;

''(D) the creation of innovative models for education and outreach on health-care and related rehabilitation and education services on blast injuries, with such education and outreach to target those who have sustained a blast injury and health care providers and researchers in the Veterans Health Administration, the Department of Defense, and the Department of Homeland Security;

''(E) the development of educational tools and products on blast injuries, and the maintenance of such tools and products in a resource clearinghouse that can serve as resources for the Veterans Health Administration, the Department of Defense, the Department of Homeland Security, and other departments and agencies of the Federal Government;

''(F) the development of interdisciplinary training programs on the provision of health care and rehabilitation care services for blast injuries that provide an integrated understanding of the continuum of care for such injuries to the broad range of providers of such services, including first responders, acute-care providers, and rehabilitation service providers; and

''(G) the implementation of strategies for improving the medical diagnostic coding of blast injuries in the Department to reliably identify veterans with blast injuries and track outcomes over time.

''(3) The Secretary shall designate a designate a center or centers under this section upon the recommendation of the Under Secretary for Health.

''(4) The Secretary may designate a center under this section only if—

''(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

''(B) the Secretary makes the finding described in subsection (d); and

''(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

''(5) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

''(c) PROPOSAL REQUIREMENTS.—A proposal submitted for the designation of a center under this section shall—

''(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities (in this subsection referred to as the 'collaborating facilities') in the same geographic area that have a mission centered on the care of individuals with blast injuries and a Department facility in that area which has a mission of providing tertiary medical care;

''(2) provide that not less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating facilities with respect to the center; and

''(3) provide for a governance arrangement among the facilities described in paragraph (1) with respect to the center that ensures that the center will be established and operated in a manner aimed at improving the quality of care for blast injuries at the collaborating facilities with respect to the center.

''(d) FINDINGS RELATING TO PROPOSALS.—The finding referred to in subsection (b)(4)(B) with respect to a proposal for the designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

''(1) An arrangement with an affiliated accredited medical school or university that provides education and training in disaster preparedness, homeland security, and biodefense.

''(2) Comprehensive and effective treatment services for head injury, spinal cord injury, audiology, amputation, gait and balance, and mental health.

''(3) The ability to attract scientists who have demonstrated achievement in research—

''(A) into the evaluation of innovative approaches to the rehabilitation of blast injuries; or

''(B) into the treatment of blast injuries.

''(4) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of services on blast injuries that are provided by the Department at or through individual facilities.

''(e) DEPARTMENTAL SUPPORT ON EVALUATION OF CENTER PROPOSALS.—(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for blast injury matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

''(2) The panel shall consist of experts in the fields of research, education and training, and clinical care on blast injuries. Members of the panel shall serve as consultants to the Department.

''(3) The panel shall review each proposal submitted to the panel by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether or not that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

''(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(f) AWARD OF FUNDING.—Clinical and scientific investigation activities at each center established under this section—

''(1) may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research; and

''(2) shall receive priority in the award of funding from such amounts insofar as funds are awarded from such amounts to projects and activities relating to blast injuries.

''(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers established under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

''(2) Information shall be disseminated under this subsection through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

''(h) SUPERVISION.—The official within the central office of the Veterans Health Administration responsible for blast injury matters shall be responsible for supervising the operation of the centers established under this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

''(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers established under this section amounts as follows:

''(A) $3,125,000 for fiscal year 2005.

''(B) $6,250,000 for each of fiscal years 2006 through 2008.

''(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health shall allocate to each center established under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetics research, such additional amounts as the Under Secretary for Health determines appropriate to carry out the purpose of this section.''.

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7326, the following new item:

''7327. Centers for research, education, and clinical activities on blast injuries''

(b) DESIGNATION OF CENTERS.—The Secretary of Veterans Affairs shall designate at least one center for research, education, and clinical activities on blast injuries as required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than January 1, 2005.

(c) ANNUAL REPORTS.—(1) Not later than February 1 of each of 2006, 2007, and 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the center for research, education, and clinical activities on blast injuries established under section 7327 of title 38, United States Code (as so added). Each such report shall include the following:

(A) A description of the activities carried out at each center, and the funding provided for such activities.

(B) A description of the advances made at each of the participating facilities of the each center in research, education and training, and clinical activities on blast injuries .

(C) A description of the actions taken by the Under Secretary for Health pursuant to subsection (g) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

(D) The assessment of the Secretary of the effectiveness of the centers in fulfilling the purposes of the centers.

By Mr. SPECTER (for himself and Mr. SCHUMER):

S. 2525. A bill to establish regional dairy marketing areas to stabilize the price of milk and support the income of dairy producers; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I join today with nine of my colleagues to introduce the National Dairy Equity Act (NDEA), legislation intended to substantially reduce Federal expenditures for the dairy industry and allow for more local authority to regulate milk prices in a particular area. Members of the House of Representatives have introduced similar legislation with 20 cosponsors.

This legislation would establish a voluntary, national program that permits producers and consumers, acting through Regional Dairy Marketing Area (RDMAs), to establish minimum prices for Class I fluid milk, which is intended to stabilize the price of milk. Although the June 2004 Class I fluid milk price is $18.40, the true impetus for this legislation is based on the April 2003 price of $11.89, the lowest milk price in the last 25 years as of October 1978. The recent rise in milk price, while certainly welcome, gives only a temporary respite from the low prices of the past five years that have threatened the survival of thousands of dairy farm. In Pennsylvania alone, since 1999, 1,100 dairy farms have fallen victim to the battle over milk pricing.

Since last spring, I, along with my colleagues in both the Senate and the House representing the Northeast, South and Midwest, have held monthly meetings to address this dire situation faced by the dairy industry. Additionally, I have worked with Pennsylvania Department of Agriculture Secretary Dennis Wolff, the Pennsylvania Dairy Task Force, which represents Pennsylvania's 9,900 commercial dairy farms, and have assembled a working group of 24 Pennsylvania dairy farmers for their input, while holding eight forums in Pennsylvania discussing the merits of the legislation I present today.

Under the NDEA, five RDMAs would be established; three of these RDMAs, the Northeast, the South, and the Midwest, would be automatically deemed

as participating States, but there is a mechanism for any State to opt out. The States within the other two regions, the Intermountain and the Pacific, can opt into the program. Ultimately, the NDEA overcomes previous inter-regional objections to similar plans because it permits regions with low Class I utilization to receive the same benefit as higher regions, and does not require national pooling of money between the various regions.

Within each RDMA, a board, representative of both farmers and consumers, would be appointed by the U.S. Secretary of Agriculture exclusively from lists of nominees provided by the Governors, Ag Commissioners in which they are elected officeholders. The RDMA boards would distribute the payments to the farmers in their regions and would also have the authority to conduct supply management, including the development and implementation of incentive-based supply management programs.

Specifically, this legislation would allow states that do not wish to participate in the NDEA to continue participating in the current Milk Income Loss Contract (MILC) program, which would be extended to 2007 to coincide with the reauthorization of the Farm Bill. The MILC program is set to expire at the end of September 2005. Although I supported the MILC program when it was offered in the 2002 Farm Bill, I am aware that the MILC program is delinquent in providing a producer (farmer) referendum within a region; especially in the Northeast, to establish a regulated over-order price.

Equally, I am concerned about the cost of the MILC program. Since 2002, this program has cost the Federal Government nearly $1.65 billion, when it originally scored at only $1 billion from 2002 to September 2005. If enacted, the NDEA will reduce government spending by 90 percent in the Northeast, 100 percent in the South and 65 percent in the Midwest. Nationwide, this is a cost savings of nearly $700 million, roughly $200 million per year from enactment until 2007.

More specifically in Pennsylvania, the MILC payment program is costing the Federal Government roughly $44.2 million, which is dispersing payments to 8,300 dairy farms with herd sizes of roughly 100 cows or less. Under the NDEA, this cost to the Federal Government would be reduced by 90 percent, and would ultimately pay $35 million more to these farmers for a total of $78.6 million because the maximum price for milk would be capped at $17.50, national pooling under the MILC payment would be eliminated and better supply management techniques would be put into place.

Finally, this legislation clearly does not model a dairy compact because unlike a compact, the NDEA establishes a cap of $17.50 per cwt, hundredweight, on maximum Class I price, which could increase in succeeding years based on Consumer Price Index (CPI), Additionally, this legislation equalizes payments producers receive by establishing a 50 percent Class utilization payment for all regions thereby not placing low Class I utilization areas at a disadvantage, ultimately establishing a level playing field. The NDEA provides for federal authority for the establishment of five RDMAs, and establishes a central dairy producers payment fund at the Federal level that would transfer processor payments and if necessary CCC funds back to each RDMA in order to equalize all payments among regions.

As we continue to celebrate National Dairy Month, I urge my colleagues to cosponsor and support this timely legislation, which would help reduce the Federal deficit and would tighten the huge gap that exists in the stabilization of the milk price for the betterment of our nation's dairy industry.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, and Mr. CORZINE):

S. 2528. A bill to restore civil liberties under the First Amendment, the Immigration and Nationality Act, and the Foreign Intelligence Surveillance Act, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing the Civil Liberties Restoration Act of 2004.

The attacks of September 11 changed this nation forever. Much has been done since then to combat the threat of terrorism and make America safer. But not every measure or policy adopted after 9/11 has been effective, legal, or fair. The strengthening of security has sometimes meant the weakening of civil liberties. Often, the Bush Administration has misused the fear of terrorism as an excuse to ignore basic rights in our society.

Immigrants, especially Arabs and Muslims, became targets as the Administration carried out roundups of individuals based on national origin and religion, rather than any specific assessment of danger. Abusive detention practices took place. Registration programs have made criminal suspects out of legal immigrants.

These changes were implemented without Congressional consultation or approval. They have swept much too broadly and eliminated necessary checks and balances that prevent abuse. They have squandered our limited resources and have been more successful in alienating immigrant communities than in apprehending terrorists. We cannot allow fear to trump and trample the values upon which our country was founded. Our Nation can be both secure and free.

The Civil Liberties Restoration Act of 2004 will provide basic civil liberties protections, and restore balance and fairness to our laws in the treatment of immigrants. It will preserve fundamental rights without endangering national security. It will restore the confidence of immigrant communities, especially those unfairly targeted by recent and current policies.

It will place reasonable limitations on closed immigration hearings. On September 21, 2001, the Attorney General ordered immigration judges to close all hearings on individuals detained in the 9/11 investigation. In a highly critical report issued by the Inspector General of the Justice Department in April 2003 we learned that many were arrested as a result of ''chance encounters or tenuous connections'' to the investigation, rather than ''any genuine indications of a possible connection with or possession of information about terrorist activity.''

Nevertheless, over 600 immigration hearings were held in secret. Visitors, the press and even family members of the detainees were excluded. Consistent with the First Amendment, our legislation authorizes the closing of immigration hearings only when the government can demonstrate a compelling privacy or national security interest.

The bill will restore other due process protections weakened after 9/11. Before that, the INS was required to give notice to detained non-citizens within 24 hours of arrest, informing them of the charges against them. On September 20, 2001, Attorney General Ashcroft issued a regulation extending that period to 48 hours or ''an additional reasonable period of time'' in ''emergency or other extraordinary circumstances.''

This open-ended change led to serious abuses. As the Inspector General reported, some detainees were held for more than a month after their arrest, without being told of the charges against them. Often they were held in harsh and restrictive conditions and prevented from consulting with their attorneys.

Our legislation will require a charging document to be served within 48 hours of an arrest or detention. Noncitizens held for more than 48 hours would have to be brought before an immigration judge within 72 hours of their arrest or detention, with an exception for non-citizens who are certified by the Attorney General, based on reasonable grounds, as having engaged in espionage or a terrorist offense.

After 9/11, the Bush Administration also adopted policies that deny bond to many immigrants with no individual assessment of their danger or flight risk. Two examples of this policy were the ''hold until cleared'' policy criticized by the Inspector General's report, and the Attorney General's precedent decision declaring that all Haitians arriving by sea were a national security threat and must be detained.

Unilateral executive branch decisions mandating detention violate fundamental rights. Blanket detentions of persons who pose no flight risk or harm to the community waste valuable resources that should be used to apprehend criminals and terrorists.

Our legislation will require the Secretary of Homeland Security to provide all detainees with individual assessments to determine whether they pose a flight risk or a threat to public safety, except those in categories specifically designated by Congress as posing a special threat. If the individual is eligible for release, the Secretary must set a reasonable bond or other conditions to guarantee the person's appearance at future proceedings, and this decision would be subject to review by an immigration judge.

The authority of immigration judges was further weakened by an October 2001 regulation that authorizes the Attorney General to stay a decision by an immigration judge to release an individual if bond had originally been denied, or had been set at $10,000 or more. The current regulation goes too far. It allows the government's immigration attorneys to overrule a decision by an immigration judge that an individual does not pose a risk.

The bill puts reasonable limitations on this automatic stay authority. The Board of Immigration Appeals could stay the immigration judge's bond decision for a limited time, only when the government is likely to prevail in appealing that decision and there is a risk of irreparable harm in the absence of a stay.

In early 2002, Attorney General Ashcroft issued a series of ''procedural reforms'' purportedly designed to eliminate the backlog of cases in the Board of Immigration Appeals. Altering its practices in accordance with the new mandates, the Board has issued thousands of single-member decisions affirming without written opinions the decisions of the immigration judges. Before the changes took effect, 1 in 4 appeals was granted, now only 1 in 10 is granted. Instead of eliminating the backlog, however, the cases have shifted to the federal courts. The number of Board decisions being appealed to the federal courts has increased dramatically. The Ninth Circuit has received over 4,200 immigration appeals, more than four times the usual number.

These so-called reforms highlight the degree to which integrity and impartiality of the immigration courts have been compromised. To correct the problem, the bill establishes an independent regulatory agency within the Department of Justice to administer the immigration court system. Integrity would be restored by enabling Board Members and immigration judges to exercise independent judgment and discretion. The reforms will help ensure that individuals and families receive fair treatment in immigration decisions, which can have profound consequences for immigrants and refugees, such as permanent separation from loved ones, or deportation to countries where they may face persecution and even death.

The Act will also end the infamous National Security Entry-Exit Registration System—the NSEERS program which was launched by Attorney General Ashcroft in August 2002 and which required men from predominately Muslim or Arab countries to be fingerprinted, photographed, and interrogated, based on the absurd notion that terrorists would present themselves for registration and be caught.

As Vincent Cannistraro, former director of Counterterrorism Operations at the CIA, has said, policies like the NSEERS program caused fear and distrust and worked ''against intelligence-gathering by law enforcement, particularly the FBI.'' At a time when we needed vital intelligence information, members of these communities were unfairly stigmatized and discouraged from coming forward to help our law enforcement and counter-terrorism efforts.

According to Department of Homeland Security officials, no one registered under the NSEERS program was ever charged with terrorism. Last December, significant parts of the NSEERS program were suspended. Our bill will terminate it completely, and it will also close removal proceedings for certain individuals targeted under it.

A related issue is the exercise of prosecutorial discretion. More than 14,000 individuals who voluntarily complied with the NSEERS program were placed in removal proceedings for technical immigration violations, even though many of them had relief available to them or were in the process of applying for permanent residence. Immigration officers routinely refused to use their discretion not to arrest these individuals, or not to initiate removal proceedings against them, or not to release them from detention. The result was a massive diversion of resources away from investigations, prosecutions, and removals of criminals and terrorists.

Our bill will codify an immigration memorandum which outlines the parameters for the responsible exercise of prosecutorial discretion. The legislation makes clear that such discretion is not an invitation to violate or ignore the law, but is intended to give the government the flexibility to maximize its allocation of resources. Exercise of such discretion is particularly appropriate in light of the complexity of the immigration laws, the harshness of the consequences of enforcement, and the importance of conserving limited enforcement resources so that they are available for use against individuals who threaten our safety and security.

Given the problems inherent in the NSEERS program, the government should reconsider all pending NSEERS cases and determine whether a favorable exercise of discretion is warranted. Family ties, humanitarian concerns, and eligibility for relief are positive factors that should be considered in assessing such cases.

Our bill also protects the integrity of the National Crime Information Center database. For decades, in maintaining the database, the Department of Justice was required to obey the Privacy Act, which requires each agency to maintain its records ''with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individuals in the determination.'' In March 2003, Attorney General Ashcroft issued a regulation stating that these requirements no longer applied to the NCIC database, and justified the exemption because ''in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete.''

Our legislation requires the Attorney General to comply with the Privacy Act in maintaining the database. Circumventing this statutory obligation poses significant risks not only for individuals whose files may be part of this data system, but also for communities that rely on law enforcement to employ effective, reliable methods for protecting public safety.

This requirement is especially important today. The Attorney General announced last year that information on more than 400,000 persons with removal orders and an unknown number of alleged NSEERS violators would be included in the database. The error rate in immigration records has always been very high—a fact confirmed by numerous reports issued by the Inspector General. Requiring the Attorney General to comply with the Privacy Act will help prevent inaccurate and unreliable information from contaminating the database and harming individuals and communities.

The bill also protects privacy by ensuring that constitutional limitations apply to secret surveillance. The Patriot Act amended the Foreign Intelligence Service Act to permit surveillance or searches when a ''significant purpose'', not just the ''primary purpose'', of the surveillance or search is foreign intelligence. Under current procedures, when such evidence is brought before a court, it is nearly impossible for a criminal defendant to contest its introduction, because the government's application for the search is kept secret. When such evidence is used in criminal cases, the court should disclose the application and related materials to the defendant, subject to the Classified Information Procedures Act, which offers a balanced and effective way to protect both national security information and the rights of defendants.

In addition, the legislation provides that when such information from electronic surveillance and other sources is introduced in a criminal case, disclosure of the surveillance application, order, or other materials is permitted under the procedures in the Classified Information Procedures Act.

Finally, the bill addresses the practice of data-mining. Through comprehensive data-mining, many records that people believe are private can be

collected by computer, fed into a database and used by the government without their knowledge. Law enforcement must have the necessary means to protect our safety, but the use of data-mining technology should not be allowed to threaten privacy and civil liberties.

The legislation will require all federal agencies to report to Congress within 90 days and annually in future years on data-mining programs used to find patterns indicating terrorist or other criminal activity and the effect of these programs on civil liberties and privacy, so that Congress can exercise its oversight authority over federal agencies using this technology.

We know that we can protect our nation's security and still respect the basic rights of both citizens and immigrants. The Civil Liberties Restoration Act is a needed effort to end the abuse that has become all too common in the past three years, and Congress has a responsibility to end them. It has been said that our laws are the wise restraints that make us free. The restraints have been weakened in recent years, and we need to make them stronger.

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

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

S. 2528

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 ''Civil Liberties Restoration Act of 2004''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Fighting terrorism is a priority for our Nation.

(2) As Federal, State, and local law enforcement work tirelessly every day to prevent another terrorist attack, our Nation must continue to work to ensure that law enforcement have the legal tools and resources to do their job.

(3) At the same time, steps that are taken to protect the United States from terrorism should not undermine constitutional rights and protections.

(4) Some of the steps taken by the Administration since September 11, 2001, however, have undermined constitutional rights and protections.

(5) Our nation must strive for both freedom and security.

(6) This Act seeks to restore essential rights and protections without compromising our Nation's safety.

TITLE I—RESTORING FIRST AMENDMENT RIGHTS

SEC. 101. LIMITATION ON CLOSED IMMIGRATION HEARINGS.

(a) IN GENERAL.—Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

''(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

''(1) IN GENERAL.—Subject to paragraph (2), a removal proceeding held pursuant to this section shall be open to the public.

''(2) EXCEPTIONS.—Portions of a removal proceeding held pursuant to this section may be closed to the public by an immigration judge on a case by case basis, when necessary—

''(A) to preserve the confidentiality of applications for asylum, withholding of removal, relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902), or the Victims of Trafficking and Violence Prevention Act of 2000 (Public Law 106–386; 114 Stat. 1464), or other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence, all with the consent of the alien;

''(B) to prevent the disclosure of classified information that threatens the national security of the United States and the safety of the American people; or

''(C) to prevent the disclosure of the identity of a confidential informant.

''(3) COMPELLING GOVERNMENT INTEREST.—In order for portions of removal proceedings to be closed to the public in accordance with this subsection, the government must show that such closing of the proceedings is necessitated by a compelling governmental interest and is narrowly tailored to serve that interest.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 240(b) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)) is amended—

(1) in paragraph (5)(C)(i), by striking ''subsection (e)(1)'' and inserting ''subsection (f)(1)''; and

(2) in paragraph (7), by striking ''subsection (e)(1)'' and inserting ''subsection (f)(1)''.

TITLE II—PROVIDING DUE PROCESS FOR INDIVIDUALS

SEC. 201. TIMELY SERVICE OF NOTICE.

(a) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) NOTICE OF CHARGES.—The Secretary of Homeland Security shall serve a notice to appear on every alien arrested or detained under this Act, except those certified under section 236A(a)(3), within 48 hours of the arrest or detention of such alien. Any alien, except those certified under section 236A(a)(3), held for more than 48 hours shall be brought before an immigration judge within 72 hours of the arrest or detention of such alien. The Secretary of Homeland Security shall—

''(1) document when a notice to appear is served on a detainee in order to determine compliance by the Department of Homeland Security with the 48-hour notice requirement; and

''(2) submit to the Committees on the Judiciary of the Senate and the House of Representatives an annual report concerning the Department of Homeland Security's compliance with such notice requirement.''.

(b) APPLICABILITY OF OTHER LAW.—Nothing in section 236(f) of the Immigration and Nationality Act, as added by subsection (a), shall be construed to repeal section 236A of such Act (8 U.S.C. 1226a).

SEC. 202. INDIVIDUALIZED BOND DETERMINATIONS.

(a) IN GENERAL.—Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226(a)) is amended—

(1) by striking ''On a warrant'' and inserting the following:

''(1) IN GENERAL.—On a warrant'';

(2) by striking ''Except as provided'' and all that follows through the end and inserting the following: ''This subsection shall apply to all aliens detained pending a decision on their removal or admission, regardless of whether or not they have been admitted to the United States, including any alien found to have a credible fear of persecution under section 235(b)(1)(B) or any alien admitted or seeking admission under the visa waiver program pursuant to section 217. Except as provided in subsection (c) and pending such decision, the Secretary of Homeland Security shall—

''(A) make an individualized determination as to whether the alien should be released pending administrative and judicial review, to include a determination of whether the alien poses a danger to the safety of other persons or property and is likely to appear for future scheduled proceedings; and

''(B) grant the alien release pending administrative and judicial review under reasonable bond or other conditions, including conditional parole, that will reasonably assure the presence of the alien at all future proceedings, unless the Secretary of Homeland Security determines under subparagraph (A) that the alien poses a danger to the safety of other persons or property or is unlikely to appear for future proceedings.

''(2) INDIVIDUALIZED DETERMINATIONS.—An individualized determination made by the Secretary of Homeland Security pursuant to paragraph (1)(A) shall be reviewable at a hearing held before an immigration judge pursuant to section 240. An immigration judge who reviews an initial bond determination by the Secretary of Homeland Security, or who makes a bond determination prior to a decision by the Secretary of Homeland Security, shall apply the same standards set forth in subparagraphs (A) and (B) of paragraph (1).''.

(b) REVOCATION OF BOND OR PAROLE.—Section 236(b) of the Immigration and Nationality Act (8 U.S.C. 1226(b)) is amended by striking ''The Attorney General'' and all that follows through the period and inserting the following: ''The bond or parole determination made pursuant to subsection (a)(1)(B) may be revoked or modified only by an immigration judge in proceedings held pursuant to section 240, and only if the party seeking to revoke or modify the bond or parole determination can establish a change in circumstances. The administrative decision finding the alien removable does not, in and of itself, constitute a change in circumstances. At such a hearing, if changed circumstances are established, the immigration judge shall make a new individualized determination in the manner described in subsection (a).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''; and

(2) in subsection (e), by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''.

SEC. 203. LIMITATION ON STAY OF A BOND.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as amended by section 201, is further amended by adding at the end the following:

''(g) STAY OF A BOND DETERMINATION.—An order issued by an immigration judge to release an alien may be stayed by the Board of Immigration Review, for not more than 30 days, only if the Government demonstrates—

''(1) the likelihood of success on the merits;

''(2) irreparable harm to the Government if a stay is not granted;

''(3) that the potential harm to the Government outweighs potential harm to alien; and

''(4) that the grant of a stay is in the interest of the public.''.

SEC. 204. IMMIGRATION REVIEW COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established within the Department of Justice an independent regulatory agency to be known as the Immigration Review Commission (referred to in this section as the ''Commission''). The Executive Office of Immigration Review is hereby abolished and replaced with such Commission.

(2) TRANSFER OF AUTHORITY.—The Commission shall perform all administrative, appellate, and adjudicatory functions that were, prior to the date of enactment of this Act, the functions of the Executive Office of Immigration Review or were performed by any officer or employee of the Executive Office of Immigration Review in the capacity of such officer or employee. Such functions shall not include the policy-making, policy-implementation, investigatory, or prosecutorial functions of the Department of Homeland Security.

(3) ORGANIZATION.—The Commission shall consist of:

(A) The Office of the Director.

(B) The Board of Immigration Review.

(C) The Office of the Chief Immigration Judge.

(D) The Office of the Chief Administrative Hearing Officer.

(b) OFFICE OF THE DIRECTOR.—

(1) APPOINTMENT.—There shall be as the head of the Commission, a Director who shall be appointed by the President with the advice and consent of the Senate.

(2) TRANSFER OF OFFICES.—The following officers shall be transferred from the Executive Office for Immigration Review to the Office of the Director for the Commission:

(A) Deputy Director.

(B) General Counsel.

(C) Pro Bono Coordinator.

(D) Public Affairs.

(E) Assistant Director of Management Programs.

(F) Equal Employment Opportunity.

(3) RESPONSIBILITIES.—

(A) The Director shall oversee the administration of the Commission, and the creation of rules and regulations affecting the administration of the courts.

(B) The Director shall appoint a Deputy Director to assist with the duties of the Director and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed.

(c) BOARD OF IMMIGRATION REVIEW.—

(1) IN GENERAL.—The Board of Immigration Review (referred to in this section as the ''Board'') shall perform the appellate functions of the Commission.

(2) APPOINTMENT.—The Board shall be composed of a Chairperson and not less than 14 other immigration appeals judges, appointed by the President, in consultation with the Director. The term of office of each member of the Board shall be 6 years.

(3) CURRENT MEMBERS.—Each individual who is serving as a member of the Board on the date of enactment of this Act shall be appointed to the Board utilizing a system of staggered terms of appointment based on seniority.

(4) MEMBERS.—The Chairperson and each other member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional, legal expertise in immigration and nationality law.

(5) CHAIRPERSON DUTIES.—The Chairperson shall—

(A) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(B) direct, supervise, and establish internal operating procedures and policies of the Board; and

(C) designate a member of the Board to act as Chairperson in the Chairperson's absence or unavailability.

(6) BOARD MEMBERS DUTIES.—In deciding the cases before the Board, the Board shall exercise its independent judgment and discretion and may take any action, consistent with its authorities under this section and regulations established in accordance with this section, that is appropriate and necessary for the disposition of such cases.

(7) JURISDICTION.—The Board shall have—

(A) such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals;

(B) de novo review of any decision by an immigration judge, and any final order of removal; and

(C) retention of jurisdiction over any case of an alien removed by the United States if the alien's case was pending for consideration before the Board prior to removal of the alien.

(8) ACTING IN PANELS.—

(A) IN GENERAL.—All cases shall be subject to review by a 3 member panel. The Chairperson shall divide the Board into 3 member panels and designate a presiding member of each panel such that—

(i) a majority of the number of Board members authorized to constitute a panel shall constitute a quorum for such panel; and

(ii) each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before it.

(B) FINAL DECISION.—A final decision of a panel shall be considered to be a final decision of the Board.

(9) EN BANC PROCESS.—

(A) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chairperson, consider any case as the full Board en banc, or reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel or by a limited en banc panel.

(B) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(10) DECISIONS OF THE BOARD.—

(A) IN GENERAL.—The decisions of the Board shall constitute final agency action. The precedent decisions of the Board shall be binding on the Department of Homeland Security and the immigration judges.

(B) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if the decision of the immigration judge resolved all issues in the case. An affirmance without opinion signifies the Board's adoption of the immigration judge's findings and conclusion in total.

(C) NOTICE OF APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in the court of appeals within 30 days of the date of the decision.

(d) OFFICE OF THE CHIEF IMMIGRATION JUDGE.—

(1) ESTABLISHMENT OF OFFICE.—There is established within the Commission an Office of the Chief Immigration Judge to oversee all the immigration courts and their proceedings throughout the United States. The head of the office shall be the Chief Immigration Judge who shall be appointed by the Director.

(2) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resources and facilities, and for the coordination of the schedules of immigration judges to enable the judges to conduct the various programs assigned to them. The Chief Immigration Judge may be assisted by a Deputy Chief Immigration Judge and Assistant Chief Immigration Judge.

(3) APPOINTMENT OF IMMIGRATION JUDGES.—

(A) IN GENERAL.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge and the Chair of the Board of Immigration Review. The term of each immigration judge shall be 12 years.

(B) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional, legal expertise in immigration and nationality law.

(C) CURRENT MEMBERS.—Each individual who is serving as an immigration judge on the date of enactment of this Act shall be appointed as an immigration judge utilizing a system of staggered terms of appointment based on seniority.

(4) DUTIES OF IMMIGRATION JUDGES.—In deciding the cases before them, immigration judges shall exercise their independent judgment and discretion and may take any action, consistent with their authorities under this section and regulations established in accordance with this section, that is appropriate and necessary for the disposition of such cases.

(5) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The Immigration Courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Immigration Courts within the Executive Office for Immigration Review.

(6) CONTEMPT AUTHORITY.—The contempt authority provided to immigration judges under section 240(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(1)) shall—

(A) be implemented by regulation not later than 120 days after the date of enactment of this Act;

(B) provide that any contempt sanctions, including any civil money penalty, shall be applicable to all parties appearing before the immigration judge and shall be imposed by a single process applicable to all parties.

(e) OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—

(1) IN GENERAL.—The Office of the Chief Administrative Hearing Officer shall be headed by a Chief Administrative Hearing Officer who shall be appointed by the Director.

(2) DUTIES AND RESPONSIBILITIES.—The duties and responsibilities of the current Office of the Chief Administrative Hearing Officer shall be transferred to the Commission.

(f) REMOVAL AND REVIEW OF JUDGES.—

(1) IN GENERAL.—Immigration judges and members of the Board of Immigration Review may be removed from office only for good cause—

(A) by the Director, in consultation with the Chair of the Board, in the case of the removal of a member of the Board; or

(B) by the Director, in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

(2) INDEPENDENT JUDGMENT.—No immigration judge or member of the Board shall be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by subsections (c)(6) and (d)(4).

(g) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the

Director shall issue regulations to implement this section.

TITLE III—EFFECTIVE LAW ENFORCEMENT

SEC. 301. TERMINATION OF THE NSEERS PROGRAM; ESTABLISHMENT OF REASONABLE PENALTIES FOR FAILURE TO REGISTER.

(a) TERMINATION OF NSEERS.—

(1) IN GENERAL.—The National Security Entry-Exit Registration System (NSEERS) program administered by the Secretary of Homeland Security is hereby terminated.

(2) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Nothing in this section shall amend the Integrated Entry and Exit Data System established in accordance with section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

(3) ADMINISTRATIVE CLOSURE OF REMOVAL PROCEEDINGS.—

(A) IN GENERAL.—All removal proceedings initiated against any alien as a result of the NSEERS program shall be administratively closed. This paragraph shall apply to all aliens who were—

(i) placed in removal proceedings solely for failure to comply with the requirements of the NSEERS program; or

(ii) placed in removal proceedings while complying with the requirements of the NSEERS program and—

(I) had a pending application before the Department of Labor or the Department of Homeland Security for which there is a visa available;

(II) did not have a pending application before the Department of Labor or the Department of Homeland Security for which there is a visa available but were eligible for an immigration benefit; or

(III) were eligible to apply for other forms of relief from removal.

(B) EXCEPTIONS.—This paragraph shall not apply in cases in which the aliens are removable under—

(i) section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)); or

(ii) paragraph (2) or (4) of section 237(a) of that Act (8 U.S.C. 1227(a)(2) or (4)).

(4) MOTIONS TO REOPEN.—Notwithstanding any limitations imposed by law on motions to reopen removal proceedings, any alien who received a final order of removal as a result of the NSEERS program shall be eligible to file a motion to reopen the removal proceeding and apply for any relief from removal that such alien may be eligible to receive.

SEC. 302. EXERCISE OF PROSECUTORIAL DISCRETION.

(a) SENSE OF CONGRESS REGARDING PROSECUTORIAL DISCRETION.—

(1) FINDINGS.—Congress finds the following:

(A) Exercising prosecutorial discretion is not an invitation to violate or ignore the law, rather it is a means by which the resources of the Secretary of Homeland Security may be used to best accomplish the mission of the Department of Homeland Security in administering and enforcing the immigration laws of the United States.

(B) Although a favorable exercise of discretion by any office within the Department of Homeland Security should be respected by other offices of such Department, unless the facts and circumstances in a specific case have changed, the exercise of prosecutorial discretion does not grant lawful status under the immigration laws, and there is no legally enforceable right to the exercise of prosecutorial discretion.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the exercise of prosecutorial discretion does not lessen the commitment of the Secretary of Homeland Security to enforce the immigration laws to the best of the Secretary's ability.

(b) PROSECUTORIAL DISCRETION.—The Secretary of Homeland Security shall exercise prosecutorial discretion in deciding whether to exercise its enforcement powers against an alien. This discretion includes—

(1) focusing investigative resources on particular offenses or conduct;

(2) deciding whom to stop, question, and arrest;

(3) deciding whether to detain certain aliens who are in custody;

(4) settling or dismissing a removal proceeding;

(5) granting deferred action or staying a final removal order;

(6) agreeing to voluntary departure, permitting withdrawal of an application for admission, or taking other action in lieu of removing an alien;

(7) pursuing an appeal; or

(8) executing a removal order.

(c) FACTORS FOR CONSIDERATION.—The factors that shall be taken into account in deciding whether to exercise prosecutorial discretion favorably toward an alien include—

(1) the immigration status of the alien;

(2) the length of residence in the United States of the alien;

(3) the criminal history of the alien;

(4) humanitarian concerns;

(5) the immigration history of the alien;

(6) the likelihood of ultimately removing the alien;

(7) the likelihood of achieving the enforcement goal by other means;

(8) whether the alien is eligible or is likely to become eligible for other relief;

(9) the effect of such action on the future admissibility of the alien;

(10) current or past cooperation by the alien with law enforcement authorities;

(11) honorable service by the alien in the United States military;

(12) community attention; and

(13) resources available to the Department of Homeland Security.

SEC. 303. CIVIL PENALTIES FOR TECHNICAL VIOLATIONS OF REGISTRATION REQUIREMENTS.

(a) REGISTRATION PENALTIES.—Section 266(a) of the Immigration and Nationality Act (8 U.S.C. 1306(a)) is amended by striking ''Any alien'' and all that follows through the period and inserting the following: ''(1) A civil penalty shall be imposed, in accordance with paragraph (2), on any alien who is required to apply for registration and be fingerprinted under section 262 or 263, who willfully fails or refuses to make such application or be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien as required by such section.

''(2) The Secretary of Homeland Security may levy a civil monetary penalty of up to—

''(A) $100 for a first violation of section 262 or 263;

''(B) $500 for a second violation of section 262 or 263; and

''(C) $1,000 for each subsequent violation of section 262 or 263 after the second violation.

(b) OTHER PENALTIES.—Section 266(b) of the Immigration and Nationality Act (8 U.S.C. 1306(b)) is amended to read as follows:

''(b)(1) A penalty shall be imposed, in accordance with paragraph (2), on any alien or the parent or legal guardian in the United States of any alien who fails to submit written notice to the Secretary of Homeland Security as required by section 265. No penalty shall be imposed with respect to a failure to submit such notice if the alien establishes that such failure was reasonably excusable or was not willful.

''(2) Except as provided in paragraphs (4) and (5), the Secretary of Homeland Security shall levy a civil monetary penalty of—

''(A) up to $100 against an alien who fails to submit written notice in compliance with section 265;

''(B) up to $500 against an alien for a second violation of section 265; and

''(C) up to $1,000 for each subsequent violation of section 265 after the second violation.

''(3) Notwithstanding any other provision of this Act, no change of immigration status shall result from failure to submit written notice as required by section 265.

''(4) During the transition period, a failure to comply with section 265 shall not result in a penalty or a change in immigration status. At the conclusion of the transition period, the Secretary of Homeland Security shall collect and maintain statistics concerning all enforcement actions related to this subsection.

''(5) The penalties imposed under this subsection shall not apply to an alien who previously failed to submit a change of address prior to the date of enactment of the Civil Liberties Restoration Act of 2004 or the end of the transition period if the alien submits a change of address within 6 months after the end of the transition period. A penalty shall be imposed, in accordance with paragraph (2), on any alien who fails to submit a change of address within the 6-month period following the transition period.

''(6) In this subsection, the term 'transition period' means the period beginning on the date of enactment of the Civil Liberties Restoration Act of 2004 and ending 1 year after the date of enactment of such Act, at which time the Secretary of Homeland Security shall implement a system to record and preserve on a timely basis addresses provided under section 265.''.

SEC. 304. NCIC COMPLIANCE WITH THE PRIVACY ACT.

Data entered into the National Crime Information Center database must meet the accuracy requirements of section 552a of title 5, United States Code (commonly referred to as the ''Privacy Act'').

TITLE IV—PROTECTING PRIVACY AND ENSURING DUE PROCESS FOR TARGETS OF SURVEILLANCE

SEC. 401. MODIFICATION OF AUTHORITIES ON REVIEW OF MOTIONS TO DISCOVER MATERIALS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ELECTRONIC SURVEILLANCE.—Section 106(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(f)) is amended—

(1) in the first sentence, by striking ''shall,'' and inserting ''may,''; and

(2) by striking the last sentence and inserting the following new sentence: ''In making this determination, the court shall disclose, if otherwise discoverable, to the aggrieved person, the counsel of the aggrieved person, or both, under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.), portions of the application, order, or other materials relating to the surveillance unless the court finds that such disclosure would not assist in determining any legal or factual issue pertinent to the case.''.

(b) PHYSICAL SEARCHES.—Section 305(g) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825(g)) is amended—

(1) in the first sentence, by striking ''shall,'' and inserting ''may,''; and

(2) by striking the last sentence and inserting the following new sentence: ''In making this determination, the court shall disclose, if otherwise discoverable, to the aggrieved person, the counsel of the aggrieved person,

or both, under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.), portions of the application, order, or other materials relating to the physical search, or may require the Attorney General to provide to the aggrieved person, the counsel of the aggrieved person, or both a summary of such materials unless the court finds that such disclosure would not assist in determining any legal or factual issue pertinent to the case.''.

(c) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1845(f)) is amended by striking paragraph (2) and inserting the following:

''(2) Unless the court finds that such disclosure would not assist in determining any legal or factual issue pertinent to the case, the court shall disclose, if otherwise discoverable, to the aggrieved person, the counsel of the aggrieved person, or both, under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.), portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or evidence or information obtained or derived from the use of a pen register or trap and trace device, as the case may be.''.

(d) DISCLOSURE OF CERTAIN BUSINESS RECORDS.—(1) Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended—

(A) by redesignating section 502 as section 503; and

(B) by inserting after section 501 the following new section:

''DISCLOSURE OF CERTAIN BUSINESS RECORDS AND ITEMS GOVERNED BY THE CLASSIFIED INFORMATION PROCEDURES ACT

''SEC. 502. Any disclosure of applications, information, or items submitted or acquired pursuant to an order issued under section 501, if such information is otherwise discoverable, shall be conducted under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.).''.

(2) The table of sections for that Act is amended by striking the item relating to section 502 and inserting the following new items:

''Sec. 502. Disclosure of certain business records and items governed by the Classified Information Procedures Act.

''Sec. 503. Congressional oversight.''.

SEC. 402. DATA-MINING REPORT.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(D) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(E) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(F) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(G) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be—

(A) submitted not later than 90 days after the date of enactment of this Act; and

(B) updated once a year and include any new data-mining technologies.

By Mr. WYDEN:

S. 2531. A bill to assist displaced American workers during a jobless recovery, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, as many as half a million Americans in the services sector have lost their jobs in the past three years; off-shoring threatens to wipe out 3.3 million more jobs in the coming decade. An off-shoring tsunami is bearing down on workers in the information technology and services sector. The most vulnerable jobs are those considered the cream of the new economy: highly paid database managers, software coders, financial analysts and accountants.

In places like my own State of Oregon, the prolonged jobless recovery is causing many people real pain. Highly educated and experienced workers are being forced to walk an economic tightrope. Displaced software workers with advanced degrees are forced to search for entry-level positions, but employers won't hire them because they're overqualified. In Oregon and elsewhere, the number of discouraged workers leaving the workforce altogether is unprecedented. If these folks were counted the national unemployment rate would be 7.4 percent rather than the current 5.6 percent.

Something in the country's tax and trade policy is seriously awry when productivity is generating wealth for a few, but not employment for the many who want to work. Something just isn't right when people can't find jobs but productivity is growing faster now than in the late 1990's, corporate profits as a share of national income are at an all-time high and all of the extra $220 billion in GDP has gone into corporate profits. In my view part of problem can be traced to U.S. tax and trade policies that actually encourage U.S. corporations to move jobs overseas rather than encourage American business to invest in American workers. These policies need to be changed.

The legislation that I am introducing today, the Keep American Jobs at Home Act, takes a first step toward eliminating tax and trade policies that favor off-shoring and overseas outsourcing at the expense of American workers. It will eliminate tax breaks for off-shoring and extend wage and training and health care premium assistance to serviceworkers who lose their jobs because of trade.

The first key feature of the bill will eliminate tax breaks for U.S. corporate off-shoring so that corporations cannot ship millions of jobs overseas courtesy of the American taxpayer. The average American probably does not know that his or her taxes are used to offset the off-shoring of their own jobs. That's right: current law allows the taxes of hard-working Americans to go right into the pockets of corporations to help them offshore and outsource American jobs. No corporation should get such a tax break, and no American taxpayer should be asked to foot the bill for their own pink slip.

Today, when a corporation sends executives and staff overseas to scope out a new facility, to buy an existing firm, or to hire foreign workers to replace employees in the United States the corporation can deduct the costs from its gross income. This means that the corporation gets a tax break on the compensation of the executives, the salaries and wages of workers, travel, lodging, meals, the cost of Internet access, computer time, copies, faxes and anything else that falls into the broad category of deductions from gross income for trade and business expenses. This means a corporation get a business expense write-off for just about any item imaginable related to off-shoring.

The bill says the costs of off-shoring and outsourcing will no longer be ''ordinary and necessary expenses.'' When is it ever necessary that a taxpayer foot the bill for her own pink slip? When is it ever necessary that taxpayer dollars subsidize the traveling expenses of a group of executives looking to relocate a manufacturing facility in a foreign country?

A respected industry research group predicts that by the end of this year, one of out every ten jobs in the U.S. IT provider industry will move to emerging markets and one out of every 20 IT jobs within user enterprises. And these figures cover jobs only in the IT sector. Under current law, all of the ''ordinary and necessary expenses paid or incurred'' in moving these millions of jobs overseas would be deductible from corporate gross income.

If a corporation opts to fire U.S. workers here at home and instead hire workers overseas, then the company should make that business decision based on the full cost of the transaction, not the cost subsidized by tax deductions courtesy of the American taxpayer.

Another important part of the bill will put in place a safety net for displaced IT and other service workers. Such a safety net, known as Trade Adjustment Assistance, or TAA, has been in place since 1962 for displaced manufacturing workers. This provision will make service sector workers displaced by trade eligible for TAA, giving them retraining, income support and a health insurance tax credit.

I was disappointed when this part of the legislation won a majority vote in the United States Senate recently, but failed to reach the 60 vote threshold needed to overcome a point of order raised by opponents. I believe it is more necessary than ever to provide assistance to workers who lose their jobs because of policies the Federal Government has adopted.

Globalization of technology is globalizing the technology workforce. Geography is increasingly less important in determining where a job can be done. The transformation from an economy built on smokestacks to one built on packets of light has come at a heavy price. Today, a software programmer in Beijing or Bangalore can perform the same tasks as a programmer in Beaverton, OR, but the programmer in Beijing or Bangalore will cost the company as little as one-fifth to one-tenth what the American programmer will be paid.

The irony is that some of the very same workers who launched the technology revolution have now become its victims. Hardly a day goes by without a front page story about an American programmer on his way out having to train a foreign worker who will replace him.

The average American may think the Federal Government is helping those tech workers displaced by trade. But it is not. That's because U.S. trade assistance laws were designed for the manufacturing era. Since 1962, when a worker lost his job in a manufacturing plant as a result of trade, he could get help through the TAA. TAA has helped hundreds of thousands of displaced workers.

But workers in the services sector—which now accounts for four-fifths of the U.S. workforce—are not eligible for TAA. Time after time, when a displaced software developer, accountant, or telemedicine support staff has gone knocking on TAA's door for help, they have been turned away. Our bill will open TAA's door to these and other displaced service sector workers. All of these workers who have been displaced by trade deserve the same benefits.

This part of the bill will establish equity in the Trade Adjustment Assistance program between manufacturing and service workers. It will cover three categories of trade-impacted service workers: 1. those who lose their jobs when their employer closes or lays off because of import competition; 2. public and private sector service workers who lose their jobs when their facility moves overseas; and 3. secondary service workers who provide services to a primary firm where workers are eligible for TAA and whose closure causes the layoff or closure at the secondary firm.

Why is TAA so important? Because it provides retraining, income support, health insurance tax credit and other benefits to workers who lose their jobs due to trade. It can also help ''secondary workers''—those supplying parts or services and who may lose their jobs when the facility they service shuts down due to import competition or moves overseas.

Another innovative way to encourage the unemployed to reenter the workforce is to provide wage insurance for qualifying displaced workers upon reemployment. Eligible workers receive up to $10,000 over two years to cover up to 50 percent of the difference in salary between a new, lower paying job and their former position. The bill also would lower the qualifying age from 50 to 40. Wage insurance helps ease the burden of reentry for eligible workers who cannot find new employment at wages comparable to their previous positions.

Workers reeling from the off-shoring of service sector jobs cannot afford to wait for the higher-skilled jobs economists promise are around the corner. Higher-value, higher-paid systems integration jobs may come along, but in this jobless recovery unemployed IT professionals are more likely to see Elvis than a sudden proliferation of help wanted ads for new, highly-skilled IT jobs. The wage insurance and TAA pieces of this legislation address what American workers really need: a fighting chance to survive in a relentlessly global economy.

This provision offers corporate boards of directors and officers a safe harbor against shareholder lawsuits involving a business decision not to outsource or off-shore American jobs. A corporation that chooses to keep its workers out of breadlines over the numbers on its bottom line should not run the risk that it could be sued for potentially lower profits or return to shareholders.

In 2002, Congress offered TAA workers help in paying for health insurance while they pursue TAA training or retraining. The vast majority of unemployed workers just don't have the money to afford health care for themselves and their families. The Health Care Tax Credit program was intended to help workers keep coverage until they are reemployed. Unfortunately, the level of premium assistance and bureaucratic obstacles led to fewer than five percent of eligible workers taking advantage of the health care tax credit.

The provisions in Title II of the bill seek to remove these barriers to participation. The bill would boost the premium coverage from 65 percent to 75 percent, clarify that any TAA worker who had three months coverage prior to losing his job is eligible for the HCTC, allow workers to get less expensive group coverage, give coverage to spouses of Medicare-eligible TAA recipients workers, and require the IRS to expedite refunds of the first month's tax credit.

In closing, I recall that the Chairman of the Council of Economic Advisors just a few months ago called off-shoring ''just a new way of doing international trade. More things are tradable than were tradable in the past, and that's a good thing. When a good or service is produced at lower cost in another country, it makes sense to import it rather than to produce it domestically.''

If this is the ''new way of doing international trade,'' the United States needs a new policy to help the nearly 4 million Americans whose information technology and related jobs have been or are expected to be moved overseas. The country needs a tax and trade policy that promotes rather than discourages investment in American workers. The country needs a tax and trade policy that eases rather than increases the pain of worker dislocation and that eliminates the tax breaks that entice U.S. businesses to move overseas. These are the goals of the Keep American Jobs at Home Act, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2531

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 ''Keeping American Jobs at Home Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Senate finds the following:

(1) The unusually prolonged period in which there has been negative job growth has caused an unprecedented number of people to refrain from actively looking for work and, therefore, to be excluded from the unemployment measurement, effectively creating a ''missing'' labor force. If the unemployment rate in February 2004 took into account this missing labor force, the unemployment rate would have been 7.4 percent or 1.8 percent greater than the official rate of 5.6 percent.

(2) Newly released unemployment figures show that the trend toward growing long-term unemployment continued last year, the second year after the recession ended.

(3) An analysis of long-term unemployment from 2000 to 2003 shows that the number of people without work for 6 months or more has risen at the extraordinarily high rate of 198.2 percent over this period, from just over 649,000 in 2000 to nearly 2,000,000 in 2003.

(4) According to the Bureau of Labor Statistics, in 2003, 22.1 percent of all unemployed workers had been out of work for more than 6 months, an increase from 18.3 percent in 2002. This proportion is higher than at comparable points in the recovery periods of the 4 most recent recessions, and is the highest rate since 1983.

(5) In 2005, 588,000 American jobs are projected to be moved overseas. In 2010, that number is expected to grow to 1,600,000 and by 2015, 3,300,000 American jobs will be moved overseas.

(6) In February 2004, the Chairman of the Council of Economic Advisors, called offshoring ''just a new way of doing international trade. More things are tradable than were tradable in the past, and that's a good thing. When a good or service is produced at lower cost in another country, it makes sense to import it rather than to produce it domestically.''.

(7) Immediate action is necessary to encourage United States companies to keep American jobs at home, to assist displaced American workers in finding new, family wage jobs, and to assure that the current American workforce has the skills to compete and win in the global economy.

(b) PURPOSE.—The purpose of this Act is to assist displaced American workers during a jobless recovery by—

(1) ensuring displaced workers in the software, information technology, and services sectors have access to the same trade adjustment assistance and health care tax credits as displaced manufacturing workers;

(2) providing wage insurance for qualifying displaced workers upon reemployment (to make up part of the difference between a new, lower salary and a previous, higher salary); and

(3) providing a legal safe harbor for United States businesses that choose to keep American jobs at home.

TITLE I—ASSISTANCE FOR DISPLACED AMERICAN WORKERS

SEC. 101. ELIMINATION OF TAX SUBSIDIES FOR OUTSOURCING OF AMERICAN JOBS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following new section:

''SEC. 280I. ELIMINATION OF TAX SUBSIDIES FOR OUTSOURCING OF AMERICAN JOBS.

''(a) IN GENERAL.—No deduction or credit shall be allowed under this chapter with respect to any applicable outsourcing item.

''(b) APPLICABLE OUTSOURCING ITEM.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable outsourcing item' means any item of expense (including any allowance for depreciation or amortization) or loss arising in connection with 1 or more transactions which—

''(A) transfer the production of goods (or the performance of services) from within the United States to outside the United States, and

''(B) result in the replacement of workers who reside in the United States with other workers who reside outside of the United States.

''(2) CERTAIN ITEMS INCLUDED.—The term 'applicable outsourcing item' shall include with respect to any transaction described in paragraph (1)—

''(A) any amount paid or incurred in training the replacement workers described in paragraph (1)(B),

''(B) any amount paid or incurred in transporting tangible property outside the United States in connection with the transfer described in paragraph (1)(A),

''(C) any expense or loss incurred in connection with the sale, abandonment, or other disposition of any property or facility located within the United States and used in the production of goods (or the performance of services) before such transfer,

''(D) expenses paid or incurred for travel in connection with the planning and carrying out of any such transaction,

''(E) any general or administrative expenses properly allocable to any such transaction,

''(F) any amount paid or incurred in connection with any such transaction for the acquisition of any property or facility located outside the United States, and

''(G) any other item specified by the Secretary.

''(3) CERTAIN ITEMS NOT INCLUDED.—The term 'applicable outsourcing item' shall not include any expenses directly allocable to the sale of goods and services without the United States.

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the provisions of this section. The Secretary shall prescribe initial regulations not later than 180 days after the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 280I. Elimination of tax subsidies for outsourcing of American jobs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring on or after the date of enactment of this Act.

SEC. 102. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(B) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

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

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 103. WAGE INSURANCE FOR QUALIFYING DISPLACED WORKERS UPON REEMPLOYMENT.

(a) IN GENERAL.—Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended to read as follows:

''SEC. 246. WAGE INSURANCE FOR DISPLACED WORKERS.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a wage insurance program for displaced workers that provides the benefits described in paragraph (2).

''(2) BENEFITS.

''(A) PAYMENTS.—A State shall use the funds provided to the State under section 241 to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

''(i) the wages received by the worker from reemployment; and

''(ii) the wages received by the worker at the time of separation.

''(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, as added by section 201 of the Trade Act of 2002.

''(3) ELIGIBILITY.—

''(A) FIRM ELIGIBILITY.—

''(i) IN GENERAL.—The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 221 to request that the group of workers be certified for the wage insurance program under this section at the time the petition is filed.

''(ii) CRITERIA.—In determining whether to certify a group of workers as eligible for the wage insurance program, the Secretary shall consider the following criteria:

''(I) Whether the workers in the workers' firm possess skills that are not easily transferable.

''(II) The competitive conditions within the workers' industry.

''(iii) DEADLINE.—The Secretary shall determine whether the workers in the group are eligible for the wage insurance program by the date specified in section 223(a).

''(B) INDIVIDUAL ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the wage insurance program may elect to receive benefits under the wage insurance program if the worker—

''(i) is covered by a certification under subchapter A of this chapter;

''(ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment; and

''(iii) earns not more than $50,000 a year in wages from reemployment;

''(iv) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(v) does not return to the employment from which the worker was separated.

''(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed $10,000 per worker during the 2-year eligibility period.

''(5) LIMITATION ON OTHER BENEFITS.—Except as provided in section 238(a)(2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

''(b) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after the date that is 5 years after the date on which such program is implemented by the State.

''(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph (1) shall continue to receive such payments provided that the worker meets the criteria described in subsection (a)(3)(B).''.

(b) CONFORMING AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by striking the item relating to section 246 and inserting the following:

''Sec. 246. Wage insurance for displaced workers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to workers certified as eligible for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 on or after the date of enactment of this Act.

SEC. 104. BUSINESS JUDGMENT DEFENSE FOR NON-OUTSOURCING.

Notwithstanding any other provision of law, a determination by the officers or directors of a corporation that it is in the best interest of the corporation to keep jobs within the United States and to not locate the domicile of the corporation outside of the United States, or move or carry out production or other business activities of the corporation or any portion thereof, outside of the United States, shall be considered in any action brought against the corporation based on such determination by the court of competent jurisdiction to be a matter of business judgment, and such officers or directors may not be found to have violated their fiduciary duty to the corporation in any such action, based on that determination.

TITLE II—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM AND SUBSEQUENT MONTHLY PREMIUMS PAID PRIOR TO CERTIFICATION OF ELIGIBILITY FOR THE CREDIT.

Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

''(e) EXPEDITED PAYMENT OF PREMIUMS PAID PRIOR TO ISSUANCE OF CERTIFICATE.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the percentage specified in section 35(a) of the premiums paid by such individual for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring prior to the issuance of a qualified health insurance costs credit eligibility certificate upon receipt by the Secretary of evidence of such payment by the certified individual.''.

SEC. 202. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

SEC. 203. CLARIFICATION OF ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) IN GENERAL.—Subsection (b) of section 35 of the Internal Revenue Code of 1986 (defining eligible coverage month) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.''.

(b) CONFORMING AMENDMENT.—Section 173(f)(5)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting ''(including with respect to any month for which the eligible individual would have been treated as such but for the application of paragraph (7)(B)(i))'' before the comma.

SEC. 204. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of

eligible individuals) is amended by striking ''65'' and inserting ''75''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 205. EXTENSION OF NATIONAL EMERGENCY GRANTS TO FACILITATE ESTABLISHMENT OF GROUP COVERAGE OPTION AND TO PROVIDE INTERIM HEALTH COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO QUALIFY FOR GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS; CLARIFICATION OF REQUIREMENT FOR GROUP COVERAGE OPTION.

(a) IN GENERAL.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended—

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

''(1) USE OF FUNDS.—

''(A) HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN QUALIFIED HEALTH INSURANCE THAT HAS GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) shall be used to provide an eligible individual described in paragraph (4)(C) and such individual's qualifying family members with health insurance coverage for the 3-month period that immediately precedes the first eligible coverage month (as defined in section 35(b) of the Internal Revenue Code of 1986) in which such eligible individual and such individual's qualifying family members are covered by qualified health insurance that meets the requirements described in clauses (i) through (iv) of section 35(e)(2)(A) of the Internal Revenue Code of 1986 (or such longer minimum period as is necessary in order for such eligible individual and such individual's qualifying family members to be covered by qualified health insurance that meets such requirements).

''(B) ADDITIONAL USES.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

''(i) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members in enrolling in health insurance coverage and qualified health insurance.

''(ii) ADMINISTRATIVE EXPENSES AND START-UP EXPENSES TO ESTABLISH GROUP COVERAGE OPTIONS FOR QUALIFIED HEALTH INSURANCE.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in health insurance coverage and qualified health insurance, including—

''(I) eligibility verification activities;

''(II) the notification of eligible individuals of available health insurance and qualified health insurance options;

''(III) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(IV) providing assistance to eligible individuals in enrolling in health insurance coverage and qualified health insurance;

''(V) the development or installation of necessary data management systems; and

''(VI) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses, in order for the State to treat at least 1 of the options described in subparagraphs (B) through (H) of subsection (e)(1) of section 35 of the Internal Revenue Code of 1986 as qualified health insurance under that section.

''(iii) OUTREACH.—To pay for outreach to eligible individuals to inform such individuals of available health insurance and qualified health insurance options, including outreach consisting of notice to eligible individuals of such options made available after the date of enactment of this clause.''; and

(2) by striking paragraph (2) and inserting the following:

''(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g), the term 'qualified health insurance' has the meaning given that term in section 35(e) of the Internal Revenue Code of 1986.''.

(b) FUNDING.—Section 174(c)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is amended—

(1) in the paragraph heading, by striking ''AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002'' and inserting ''APPROPRIATIONS''; and

(2) by striking subparagraph (A) and inserting the following:

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $300,000,000 for the period of fiscal years 2004 through 2006; and''.

(c) REPORT REGARDING FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following:

''(8) REPORT FOR FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—If the Secretary fails to make the notification required under clause (i) of paragraph (3)(A) within the 15-day period required under that clause, or fails to provide the technical assistance required under clause (ii) of such paragraph within a timely manner so that a State or entity may submit an approved application within 2 months of the date on which the State or entity's previous application was disapproved, the Secretary shall submit a report to Congress explaining such failure.''.

(d) CLARIFICATION OF REQUIREMENT TO ESTABLISH GROUP COVERAGE OPTION.—Subsection (g) of section 35 of the Internal Revenue Code of 1986 (relating to special rules) is amended—

(1) by redesignating paragraph (9) as paragraph (11); and

(2) by inserting after paragraph (8) the following:

''(9) REQUIREMENT TO ESTABLISH GROUP COVERAGE OPTION.—With respect to a State, no credit shall be allowed under this section to an individual who resides in that State on or after the date that is 2 years after the date of the enactment of this paragraph unless, not later than such date, the State has elected to have at least 1 of the options described in subparagraphs (B) through (H) of subsection (e)(1) treated as qualified health insurance under this section.

''(10) GROUP HEALTH PLAN.—For purposes of this section, the term 'group health plan' has the meaning given that term in section 5000(b)(1).''.

(e) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 933), subsection (f) of section 203 of that Act is repealed.

SEC. 206. ALIGNMENT OF COBRA COVERAGE WITH TAA PERIOD FOR TAA-ELIGIBLE INDIVIDUALS.

(a) ERISA.—Section 605(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(b)) is amended—

(1) in the subsection heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under section 602(2)(A) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

(b) INTERNAL REVENUE CODE OF 1986.—Section 4980B(f)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in the subparagraph heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in clause (ii)—

(A) in the clause heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under paragraph (2)(B)(i) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

(c) PUBLIC HEALTH SERVICE ACT.—Section 2205(b) of the Public Health Service Act (42 U.S.C. 300bb–5(b)) is amended—

(1) in the subsection heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under section 2202(2)(A) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

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

S. 2532. A bill to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise with my good friend Senator ENSIGN to co-sponsor a bill that is important to Lincoln County, important to Southern Nevada, and important to America.

The Lincoln County Conservation, Recreation and Development Act of 2004 accommodates southern Nevada's growth and meets our conservation challenges. I am pleased that Congressman GIBBONS, Congresswoman BERKLEY and Congressman PORTER are introducing companion legislation in the House of Representatives today. We are working together on a bipartisan basis to reach fair compromises on a number of difficult issues.

The Lincoln County Conservation, Recreation and Development Act represents a comprehensive plan that balances the needs for infrastructure development, recreation opportunities, and conservation of our natural resources and public lands in Lincoln County, Nevada. Our bill is a broad-based compromise. It creates utility corridors, resolves wilderness study area issues, provides for competitive, Federal land sales, designates a back country off-highway vehicle trail and provides for the conveyance of federal land to the State of Nevada and Lincoln County for use as public parks.

We do not expect everyone to advocate every provision of this bill. In fact, I don't imagine that anyone will champion every provision of this bill. It is a tough compromise and it is a good bill.

I will preface my description of the titles of this bill by reviewing the challenges that public land issues pose in Nevada. Nearly 9 out of every 10 acres in our State are owned and managed by the Federal Government. This includes land managed by the U.S. Forest Service, the Bureau of Reclamation, the Bureau of Land Management, the Department of Energy, the U.S. Navy, the U.S. Army and the U.S. Air Force.

In Lincoln County, the Bureau of Land Management, Fish and Wildlife Service and Department of Defense manage 49 out of every 50 acres—98 percent of the total land area.

Unlike most of America where land use decisions are made by local communities, many land use decisions in Nevada require concurrence of Federal officials and, in some cases, the passage of Federal laws. The Ely Field and the State offices of the BLM bear tremendous responsibilities with respect to the management, development, and conservation of natural resources in eastern Nevada, particularly in Lincoln County. Many of my colleagues from western states identify with the challenges and benefits of Federal land ownership.

In Lincoln County these challenges are compounded by rapid growth and a fragile ecology: The neighboring Las Vegas valley is the fastest growing community in the nation, and the Mojave Desert is one of North America's most extreme and vulnerable regions.

Many people believe this scenario poses an impossible challenge for Lincoln County. Some believe that managing growth in southern Nevada and protecting our desert for future generations are mutually exclusive. Some believe that protecting our air and water quality and recognizing that some open space should be set aside as wilderness are prohibitive barriers to growth that will unnecessarily restrict recreation. Some believe that the federal management of public land is too strict; others find it too lenient.

Some believe that every acre of Lincoln County should be privatized. Some believe that not a single acre should be auctioned from the public domain. The only common thread in these views is that they are perspectives passionately held by Nevadans.

I hope this context illustrates why compromise is not just desirable but necessary.

We fully expect some criticism for what this bill does not do. For example, it does not designate the more than 2.5 million acres that the Nevada Wilderness Coalition advocates in Lincoln County. Nor does the bill release all the wilderness study areas in Lincoln County as others advocate. Our compromise is fair, forward-looking and provides for conservation, recreation and development in Lincoln County and for southern Nevada.

The Lincoln County Conservation, Recreation and Development Act will enhance our quality of life, protect our environment for our children and grandchildren, and make public land available for housing, growth of the industrial base and infrastructure to meet community needs.

As I discuss each title of this bill, I will explain how these provisions reflect our shared effort to improve the quality of life and enhance economic opportunities for Nevadans while enriching and protecting the awe-inspiring natural and cultural resources with which southern Nevada is blessed. This bill will benefit Nevadans today, and for generations to come.

TITLE I—LAND SALES

The first title of our bill serves to increase the percentage of privately held ground in Lincoln County so local property taxes can better sustain basic governmental services. Some people oppose selling Federal land under any circumstances. However, in a case such as Lincoln County, where 98 percent of the 6.8 million acres is federally owned, blind and blanket opposition to land sales simply defies common sense.

Our bill makes available for auction up to about 90,000 acres, currently managed by the Bureau of Land Management. Further, the bill directs the BLM to proceed with the auctions required by the Lincoln County Land Act of 2000.

With respect to the 90,000 acres to be auctioned within Lincoln County, we provide for annual auctions until the acreage is sold or the County determines it prefers for the land to remain in Federal ownership. The bill does not stipulate how much acreage should or could be sold in a given year, or exactly which parcels of land should be sold, because those decisions are better left to the County, the municipalities, and citizens working in cooperation with the BLM.

This basic framework for so-called joint selection has worked very well in Clark County and we expect that it will be similarly successful in Lincoln County. This bill will greatly enhance the self determination of communities in Lincoln County.

The bill includes a provision that allows the Federal Government to retain up to 10,000 acres of the 90,000 set aside for disposal based on natural and cultural resource values. For example, if the land disposal areas in this bill include, unbeknownst to us, a significant petroglyph site or a population of a threatened or endangered species, the Secretary could choose to retain ownership.

As I have noted before on this floor, when Congress passed the Southern Nevada Public Lands Management Act of 1998, it established a new paradigm for the sale of public lands in Clark County, Nevada. One of the core principles of this new way of doing business was that the proceeds from the sale of Federal lands should be reinvested in Federal, State, and local environmental protection, infrastructure and recreational enhancements in the areas and communities where the lands are sold.

This bill is patterned after that law and provides a revenue source for following through on the various provisions of this bill such as the creation and management of an off-highway vehicle route and new wilderness areas.

TITLE II—WILDERNESS

Nevada has more than 80 wilderness study areas on Federal land across the State. These areas, which are primarily owned by the Bureau of Land Management, are managed to protect wilderness character land. These areas remain as de facto wilderness until Congress passes legislation either designating the land as wilderness or releasing the land from wilderness study area consideration.

Although there is broad support for addressing Nevada's wilderness study areas through Federal legislation, there is no consensus on how to do so. Those who advocate for wilderness designation and those who oppose further additions to the wilderness system hold strong and, in may cases, irreconcilable views on this issue.

Those of us who wrote this bill hold different views regarding wilderness. In developing the wilderness component of this bill, Senator ENSIGN, Congressman GIBBONS and I made compromises that will concern all interested parties. Our bill designates more wilderness than some advocates can support, and it falls short of the 2.5 million acres that some wilderness proponents are fighting to designate in Lincoln County alone. In any case, this bill is a critical step toward addressing the outstanding wilderness study issues in the state of Nevada.

Our bill designates wilderness and releases wilderness study areas. It designates 14 wilderness areas, all of which are under the purview of the Bureau of Land Management, totaling roughly 770,000 acres. The bill releases roughly 246,000 acres from wilderness study area status, including four BLM study areas which are released in their entirety and portions of other WSAs throughout Lincoln County. This legislation resolves all but two of the wilderness study areas in Lincoln County. Those two areas, Mt. Grafton WSA and the South Egans WSA are more than half in White Pine County and will be addressed when the Congressional delegation creates a public land bill for White Pine County.

Our bill provides for wilderness management protocols that address the particular circumstances of southern Nevada much as we did in the Clark County Conservation of Public Lands Act of 2002. For example, we explicitly require the Secretary of Interior to allow for the construction, maintenance and replacement of water catchments known as guzzlers when and where that action will enhance wilderness wildlife resources, such as bighorn sheep. In addition, we believe that the use of motor vehicles should be allowed to achieve these purposes when there is no reasonable alternative and it does not require the creation of new roads.

Some wilderness purists argue that these man-made water projects disturb the ecosystems of the Mojave Desert. I believe that guzzlers can actually help restore more natural function to ecosystems that have been forever fragmented by development. These projects, which are privately funded and hand built by dedicated conservationists, have a legitimate place in southern Nevada wilderness and our bill is clear on that point.

In our effort to create a fair wilderness designation, we have benefited from the advice and suggestions of many Nevadans representing a spectrum of views. These advocates include the Nevada Land Users Coalition, the Lincoln County Commission, The Nevada Wilderness Project, The Fraternity of Desert Bighorns, the State of Nevada, Red Rock Audubon, Friends of Nevada Wilderness, Lincoln County residents, Partners in Conservation, ranchers and miners, to name just a few.

Although our compromise does not mirror the specifics of any stakeholder wilderness proposal, it does reflect careful consideration of the constructive suggestions and ideas offered by interested Nevadans. We appreciate their help, and our compromise honors our commitment to listen carefully to all parties. We are also grateful for the help we have received from the Federal land managers in Lincoln County. We look forward to working with them to improve this bill in ways that will make their jobs easier, and enhance the experience of those who use public land.

TITLE III—UTILITY CORRIDORS

The third title of this legislation establishes rights-of-way on Federal land within discrete multi-purpose utility corridors in Lincoln and Clark Counties. By designating these corridors, this bill serves to consolidate the process for establishing utility corridors and rights-of-way on the BLM land in question.

I would like to spend a few moments elaborating on what we do and do not intend this bill to accomplish with respect to utility corridors and rights-of-way.

Last year the Southern Nevada Water Authority and the Lincoln County Commission signed an agreement ending a number of decades-old groundwater disputes in Lincoln County. As a result of this agreement various protests and counter-protests between Southern Nevada Water Authority and Lincoln County were amicably resolved. Subsequent to reaching this agreement, the SNWA and Lincoln County requested that the Nevada Congressional delegation introduce legislation to help put their plans into action.

This bill partly satisfies those requests. It does not, however, provide for everything either the SNWA or Lincoln County Commission wanted. For example, it provides substantially fewer miles of corridor than they requested and focuses specifically on corridors for trunk lines. This is analogous to painting the trunk and major limbs of a tree but not the branches, twigs and leaves. We provide routes for arterial water pipelines, but not for every well pad and secondary feeder.

This legislation relocates an existing utility corridor from the east to the west side of Highway 93 between the Highway 93 Highway 168 junction and the Kane Springs Road Highway 93 junction. This returns the utility corridor to its original location prior to passage of the Florida-Nevada Land Exchange bill. The owners of the private property currently encumbered by the utility corridor will pay the Federal Government fair market value for the appreciation of their property due to this provision.

Our bill stipulates that prior to the designation of any right-of-way provided for in this bill, the proponents must complete a full environmental impact statement pursuant to the provisions of the National Environmental Policy Act of 1969. Our bill is not intended to provide short cuts around Federal environmental laws. Rather it recognizes that one comprehensive environmental statement regarding the impact of water utility corridors and water development in Lincoln County is necessary, but that environmental reviews for the establishment of utility corridors and permission to build pipelines need not be conducted separately.

It is also worth noting that our bill explicitly recognizes the role the State Engineer plays in Nevada water law, and makes it crystal clear that this bill is not intended to influence his decisions regarding water rights adjudications or any of his other important responsibilities.

Finally, our bill authorizes the United States Geological Survey to conduct a hydrogeologic study of the water resources in White Pine County. This study should establish greater certainty regarding the water resources of east-central Nevada, and provide a basis for increasingly well-informed resource decisions in the future.

TITLE IV—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

This bill establishes an off-highway vehicle route in central Lincoln County as the Silver State Off-Highway Vehicle Trail. The Silver State Trail is a combination of existing back-country roads that are currently open and being used.

Sadly, much of rural Nevada is suffering the consequences of uncontrolled off-road vehicle use. Lincoln County is no different. And as more and more Nevadans seek recreation opportunities in Lincoln County, this situation is likely to get worse before it gets better.

Many public land users enjoy backcountry, motorized travel and the vast majority of these citizens treat public lands with respect and care. Some of these responsible stewards helped us design this route.

The Silver State Trail will serve as both a recreational and educational resource. It will be open to the full range of recreationists including off-highway vehicle users and mountain bikers. By providing an appropriate place for off-highway vehicle enthusiasts to explore Lincoln County, this bill will help locally focus off-highway vehicle use on our public lands and educate public land users.

Interested citizens will work with the Bureau of Land Management and local governments to develop a management plan for the Silver State Trail. This plan will increase recreational use and mitigate the negative impacts of such activity. If this Silver State Trail is not established, off-highway vehicle use will not go away; it will just do more damage, in many cases unintended and avoidable damage, to our public lands. I hope this trail will give public land users additional opportunities to develop a deeper and better appreciation for the Mojave Desert and how it can be used and how it must be protected.

TITLE V—STATE AND COUNTY PARK CONVEYANCES

Our bill includes a title dedicated to the creation of parks for Lincoln County and the State of Nevada. In the case of Nevada State Parks, we provide for the conveyance of three parcels of land that are currently leased to the State of Nevada by the Bureau of Land Management. These conveyances are contingent upon agreement between Lincoln County and the State of Nevada supporting the ownership transfers. In the case of Lincoln County, this bill provides for the conveyance of about 18,000 acres for use as open space and public parks. In both cases, if the land is not used for a public park or open space purpose, the land will revert to Federal ownership.

This title of our bill represents a conservation grant package to the State and County that should pay dividends for conservation and recreation in Lincoln County for generations to come.

TITLE VI—TRANSFERS OF JURISDICTION

During the development of this bill we decided against addressing wilderness issues within the Desert National Wildlife Range. This is a major disappointment to some in the environmental community who view the wilderness resources in the Range as some of the most pristine and wild country in the Mojave Desert.

It is clear that significant acreage within the Desert Game Range meets the criteria of the Wilderness Act of 1964, and someday it may yet be recognized as such. In the meantime the areas in question will continue to be managed by the Fish and Wildlife Service according to its mission.

This legislation does convey approximately 8,000 acres from the U.S. Fish and Wildlife Service to the BLM, which will manage it as a utility corridor, and conveys a similar amount of acreage from the BLM to the Fish and Wildlife Service for inclusion in the

Desert National Wildlife Range. These areas lie between State Highway 93 and the Sheep Range and this transfer helps rationalize the Federal land ownership pattern in northern Clark County and southern Lincoln County.

This legislation, the Lincoln County Conservation, Recreation, and Development Act of 2004, is a many-faceted compromise. It is an ambitious bill. It is a complex bill. And it is an important bill for Lincoln County and all of southern Nevada.

I look forward to working with the Chairman and Ranking Member of the Senate Energy and Natural Resources Committee to ensure timely review and passage of this bill.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. GRAHAM of Florida, Mr. GRASSLEY, Mr. DASCHLE, Mr. WARNER, Mrs. CLINTON, Ms. COLLINS, Mr. KENNEDY, Mr. ALEXANDER, Mr. BREAUX, Mr. DEWINE, Mr. LAUTENBERG, Mr. ROBERTS, Mr. CORZINE, Mr. TALENT, Mr. SARBANES, Mr. ALLEN, Mr. DURBIN, Mr. HAGEL, Mr. KERRY, Mrs. DOLE, Mr. CARPER, Mr. SMITH, Mr. NELSON of Nebraska, Mr. COLEMAN, Mr. EDWARDS, Ms. MURKOWSKI, Mr. DAYTON, Mr. DOMENICI, Mrs. MURRAY, Mr. HATCH, Mr. SCHUMER, Mr. HOLLINGS, Mr. BAYH, Mr. ROCKEFELLER, Ms. LANDRIEU, Mr. DODD, Mrs. LINCOLN, Ms. STABENOW, Mr. WYDEN, Mr. JOHNSON, and Mr. HARKIN):

S. 2533. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to announce the introduction of the Ronald Reagan Alzheimer's Breakthrough Act of 2004. I believe the greatest tribute to President Reagan and the Reagan family is a living memorial. That is why I am introducing this legislation with my colleague, Senator KIT BOND. Our legislation makes an all out effort to spark and accelerate breakthroughs for Alzheimer's. The legislation supports research on how to prevent the disease, how to care for people who have it, and initiatives to support those who are caregivers. Let's celebrate President Reagan's life of vigor by attacking Alzheimer's with vigor.

The time to act for real breakthroughs is now. Just last month, Senator BOND and I held a hearing on Alzheimer's research. Expert after expert told us: We are on the verge of amazing breakthroughs; we will lose opportunities if we don't move quickly; we are at a crucial point where NIH funding can make a real difference. Researchers, families, and advocates all said the same thing, we need to do more, and we need to do better. I believe that the answer to that call is passing the Ronald Reagan Alzheimer's Breakthrough Act of 2004.

We are truly on the brink of something that can make a huge difference for American families. We know that families face great difficulties when a loved one has Alzheimer's. There is great emotional cost as well as financial cost. We know that for our public investment we could get new treatments that would prolong a patient's cognitive abilities. Each month we delay admission to a long-term care facility is important to the family and to the taxpayer. Everybody wants a cure; that is our ultimate goal. But even if we keep people at home for 1 or 2 more years, to help them with their memory, and their activities of daily living, it would be an incredible breakthrough.

Our bill would do three things. First, it would strengthen our national commitment to Alzheimer's research. The legislation doubles the funding for Alzheimer's research at the National Institutes of Health from $700 million to $1.4 billion. We need to give researchers the resources they need to make breakthroughs that are on the horizon in diagnosis, prevention and intervention. Also, our bill calls for a National Summit on Alzheimer's that would bring together the best minds to look at priorities for research moving forward.

Second, our bill provides critical support for caregivers. The family is always the first caregiver. The nation saw what a family of prestige and means went through; imagine what other American families are going through. The legislation creates a tax credit for families caring for a loved one with a chronic condition, like Alzheimer's, that would help them pay for prescription drugs, home health care and specialized day care. Also, it helps create one-stop shops across the country so families can find services like respite care, adult day care and training for caregivers.

Third, our legislation promotes News You Can Use for families and physicians. Incredible advances are being made every day. We need to get the word out so families and doctors know the most current information. The Alzheimer's Association has been doing a great job with their ''Maintain Your Brain'' campaign; however, philanthropic efforts of advocacy groups are not a substitute for public policy. Our bill builds on these efforts to create an effective public education strategy.

It is amazing how far we have come. Back in the early 1980s, Alzheimer's was a catch-all term for any kind of memory loss. Today, doctors diagnose Alzheimer's with 90–percent accuracy. Every day NIH is making progress to identify risks, looking at new kinds of brain scans for appropriate detection, and understanding what this disease does to the brain.

How did we get this far, this fast? With a bipartisan commitment of the authorizers and appropriators. Together, we have been working to increase the funding for the National Institute on Aging. In 1998 the National Institute on Aging was funded at approximately $500 million. Thanks to our bipartisan effort, it is at $1 billion. Now is the time to do more.

My own dear father had Alzheimer's. I remember when I would go to visit him. It didn't matter that I was a United States Senator; it didn't matter that I could get Nobel Prize winners on the phone. The research and treatments didn't exist for my father, for President Reagan, or for more than 4 million families. Alzheimer's is an All American disease that affected an All American President. Now we need an All American effort to speed up the breakthroughs so no family has to go through the long goodbye.

I urge my colleagues to support this bill and move swiftly to enact it into law.

Mr. BOND. Mr. President, I rise today to speak of the life, leadership and the truly remarkable legacy of the 40th President of the United States, Ronald Reagan.

President Reagan was a great communicator with a powerful message. He preached the gospel of hope, freedom and opportunity not just for America but for the world. Reagan was a genuinely optimistic person who brought that spirit of optimism and hope to the American people and to enslaved peoples around the world. He was a man who took disappointment and moved on. He was a man of unfailing good humor, care and thoughtfulness. Even people who disagreed with his policies across the board could not help but like him.

In the U.S., his policies encouraged the return of more tax dollars to average Americans and unfettered entrepreneurship to create jobs and build the economy. Reagan's strong military opposition to the Soviet Union helped bring down the walls that harbored communism and tyranny throughout Eastern Europe and much of the world.

In a letter to the American people in 1994 Ronald Reagan announced he was one of the millions of Americans with Alzheimer's disease. One of the most courageous things Ronald and Nancy Reagan did was to announce publicly that he had Alzheimer's disease. Through their courage and commitment, the former President and his wife, Nancy, changed the face of Alzheimer's disease by increasing public awareness of the disease and of the need for research into its causes and prevention.

In honor of Ronald Reagan, today my colleague Senator MIKULSKI and I are introducing the Ronald Reagan Alzheimer's Breakthrough Act of 2004. This bill will increase research for Alzheimer's and increase assistance to Alzheimer, patients and their families. This bill will serve as a living tribute to President Reagan and will: 1. double funding for Alzheimer's Research at the National Institute of Health; 2. increase funding for the National Family

Caregiver Support Program from $153 million to $250 million; 3. reauthorize the Alzheimer's Demonstration Grant Program that provides grants to states to fill in gaps in Alzheimer's services such as respite care, home health care, and day care; 4. authorize $1 million for the Safe Return Program to assist in the identification and safe, timely return of individuals with Alzheimer's disease and related dementias who wander off from their caregivers; 5. Establish a public education campaign to educate members of the public about prevention techniques that can maintain their brain'' as they age, based on the current research being undertaken by NIH; 6. establish a $3,000 tax credit for caregivers to help with the high health costs of caring for a loved one at home; and 7. encourage families to prepare for their long term needs by providing an above-the-line tax deduction for the purchase of long term care insurance.

Ironically it was President Reagan who drew national attention to Alzheimer's for the very first time when he launched a national campaign against Alzheimer's disease some 22 years ago.

In 1983 President Reagan proclaimed November as National Alzheimer's Disease Month. In his proclamation President Reagan said ''the emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves special attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat is successfully. Right now, research is the only hope for victims and families.''

Today, approximately 4.5 million Americans have Alzheimer's, with annual costs for this disease estimated to exceed $100 billion. Today there are more than 4.5 million people in the United States with Alzheimer's, and that number is expected to grow by 70 percent by 2030 as baby boomers age.

In my home State of Missouri, alone, there are over 110,000 people with Alzheimer's disease. Based on population growth, unless science finds a way to prevent or delay the onset of this disease, that number will increase to over 130,000 by 2025—that is an 18 percent increase.

In large part due to President Reagan, there has been enormous progress in Alzheimer research—95 percent of what we know we discovered during the past 15 years. There is real potential for major breakthroughs in the next 10 years. Baby boomers could be the first generation to face a future without Alzheimer's disease if we act now to achieve breakthroughs in science.

President and Mrs. Reagan have been leading advocates in the fight against Alzheimer's for more than 20 years, and million of American have been helped by their dedication, compassion and effort to support caregivers, raise public awareness about Alzheimer's disease and increase of nation's commitment to Alzheimer's research.

This bill will serve as a living tribute to President Reagan and will offer hope to all those suffering from the disease today. As we celebrate the life and legacy of Ronald Reagan, we are inspired by his legendary optimism and hope, and today we move forward to confront this expanding public health crisis with renewed vigor, passion, and compassion.

Mr. GRAHAM of Florida. Mr. President, the death last week of President Ronald Reagan has focused our attention on the ravages that Alzheimer's inflicts not only on the person with the disease, but the entire family.

Alzheimer's disease currently affects 4.5 million Americans. As the baby boom generation ages that number is expected to explode. Without advances in prevention, diagnosis and treatment, we can not only expect a growing emotional toll on those suffering from the disease and their families, but also a significant drain on the already strained resources of the Medicare and Medicaid programs.

However, there is reason to be hopeful. We now know that Alzheimer's Disease is not a normal part of aging, and that there may be ways to prevent the disease. Scientists are beginning to focus on the protective effects of mental, physical and social activity, and believe that following a diet and exercise program similar to that for people with heart disease may delay the onset of Alzheimer's.

The legislation will accelerate important prevention research, in part by putting the National Institute of Aging Alzheimer's Disease Prevention Initiative into law.

In addition, this legislation includes two important changes to our tax laws that would provide greater Federal assistance to those who bear the burden of assisting patients with Alzheimer's and other conditions requiring long-term care. Over 13 million people in the United States need help with basic activities of daily living such as eating, getting in and out of bed, getting around inside, dressing, bathing and using the toilet. While many Americans believe that long-term care is an issue primarily affecting seniors, the reality is that 5.2 million adults between the ages of 18–64 and over 450,000 children need long-term care services today. These numbers are expected to double as the baby boom generation begins to retire.

Most long-term care is provided at home or in the community by informal caregivers. However, in situations where individuals must enter nursing homes or other institutional facilities, costs are paid largely out-of-pocket. Such a financing structure jeopardizes the retirement security of many Americans who have worked hard their entire lives.

The Ronald Reagan Alzheimer's Breakthrough Act provides two important tools to help Americans and their families meet their immediate and future long-term care needs—an above-the-line income tax deduction for the purchase of long-term care insurance and a caregiver tax credit.

First, the bill provides an above-the-line deduction for long-term care premiums to make long-term care insurance more affordable for a greater number of Americans. Today, such premiums are deductible, but the availability of the deduction is severely limited. First, the current deduction is available only for the thirty percent of taxpayers who itemize their deductions. That leaves the remaining seventy percent of taxpayers with absolutely no benefit. Second, the deduction is limited to an amount, which in addition to other medical expenses exceeds 7.5 percent the taxpayers adjusted gross income. This AGI limit further decreases the utilization of the current deduction.

Our legislation removes these restrictions and makes the deduction for long-term care premiums available to all taxpayers.

In order to provide sufficient incentives for families to maintain long-term care coverage, the deduction allowed under this bill increases the longer the policy is maintained. The deduction starts at 60 percent for premiums paid during the first year of coverage and gradually increases each year thereafter until the deduction reaches 100 percent after at least four years of continuous coverage. This schedule is accelerated for those age 55 or older. For those individuals, the deduction starts at 70 percent for the first year and increases to 100 percent after at least two years of continuous coverage.

Second, the bill provides an income tax credit for taxpayers with long-term care needs. The credit is phased in over 4 years, starting at $1,000 for 2003 and eventually reaching $3,000. To target assistance to those most in need, the credit phases out for married couples with income above $150,000 $75,000 for single taxpayers)''

The bill also updates the requirements that long-term care policies must meet in order to qualify for the income tax deduction. These updated requirements reflect the most recent model regulations and code issued by the National Association of Insurance Commissioners.

I urge my colleagues to join Senators MIKULSKI, BOND, GRASSLEY, CLINTON, WARNER and me in cosponsoring this legislation.

By Mr. GRAHAM of Florida:

S. 2534. A bill to amend title 38, United States Code, to extend and enhance benefits under the Montgomery GI Bill, to improve housing benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM of Florida. Mr. President, as Ranking Member of the Committee on Veterans' Affairs, I urge my colleagues to support the legislation I

introduce today, the proposed ''G.I. Bill for the 21st Century,'' a bill to improve home-buying and education options for America's veterans.

We have reached a milestone in American history. The pending measure is a fitting tribute to our nation's veterans as we celebrate the 60th anniversary of the Servicemen's Readjustment Act of 1944, better known as the ''G.I. Bill.'' The G.I. Bill, for veterans of World War II, is recognized as one of the most important acts of Congress.

The G.I. Bill ensured that all who sacrificed through service would not be penalized as a result of their war service and upon their return would be aided in reaching the positions which they might have occupied had their lives not been interrupted by war. This legendary piece of legislation alleviated postwar troubles and anticipated economic depression. During the past six decades, this government has invested billions of dollars in education and training for veterans. America has received a return on its investments many times over, resulting in a better educated, better trained, and dramatically changed society. In fact, many Members of this Senate have benefited from its far-reaching impact. In addition to its provisions for education and training, the G.I. Bill allowed millions of veterans the opportunity to purchase homes, transforming the majority of Americans from renters to homeowners.

The G.I. Bill not only eased the transition of servicemen and women back into civilian life, it transformed American society. The social and economic class structure of the United States was forever changed and the boundaries that once encompassed class status were blurred. The bill expanded opportunities for lower- and middle-class families to own their own homes and to attend college. This expansion led to the evolution of the higher education system and paved the way for future individuals from all cultural and economic backgrounds to have access to higher education. The 7.8 million men and women who used their G.I. Bill benefits cultivated a new and progressive workforce that placed more people in professional career roles, especially in critical-need areas such as education, engineering, and health care.

We must continue to ensure that veterans' education benefits change to meet the needs of veterans and their families who use them. We should continue with the original intent of the G.I. Bill to increase the ability of our veterans to acquire higher education. We have servicemembers fighting the war on terrorism world-wide and a whole new generation of combat veterans being created, as was the situation during World War II. We should make every effort to accommodate the educational needs of our veterans, and these changes to the Montgomery G.I. Bill, known as MGIB, are an important step in doing so.

''The G.I. Bill for the 21st Century'' would exclude MGIB benefits from computation as income when calculating campus-based student financial aid, such as Perkins Loans. This, importantly, draws the distinction between a benefit that has been earned, and paid for, by the veteran, and other types of income. This end is furthered by allowing the individual applying for financial aid to subtract $1200 from the expected family contribution. This $1200 represents the money that the individual paid to participate in the MGIB program. Clearly it should not be counted as part of the veteran's income to pay for school. This legislation is in keeping with legislation that I introduced, and that became law, in 1998 that excluded veterans education benefits from being considered as income in the computation of some forms of financial aid.

This legislation also offers an opportunity for enrollment in the MGIB education program for servicemembers who participated in or were eligible to participate in the post-Vietnam era educational assistance program, known as VEAP. Congress created an enrollment window for VEAP-eligible servicemembers to convert to the far more comprehensive MGIB. However, some servicemembers were not able to participate because of financial reasons or did not learn of the enrollment period in time to make the deadline. These individuals have contacted Members of Congress to create another window. As my colleagues know, education can be the key to a successful transition to civilian life. This bill creates a one-year window and requires the servicemember to pay $2700, which was the VEAP contribution.

I have spoken with many veterans and widows of veterans who were not able to immediately go to school. By the time they enrolled, their benefits were expiring. That is why this legislation maintains the 10-year delimiting period for veterans, surviving spouses, and dependents that enroll in training programs, which does not begin to toll until the individual begins the program of study. This would allow eligible participants to utilize the benefit when best for them.

In keeping with my commitment to evolve the educational assistance benefit to meet the needs of those using it, the bill that I introduce today would make national admissions exams such as the SAT, GRE, LSAT and GMAT, and national exams for credit at institutions of higher education, such as the AP exam covered by MGIB. This would greatly aid the individuals who have been absent from an academic setting for a long period of time and would go a long way in preparing them for their educational endeavors.

As we face the greatest mobilization of troops since World War II, it is only fitting that we act in the spirit of the G.I. Bill to dramatically increase the ability of our veterans and their families to buy homes in competitive housing markets throughout the nation. This bill would change the method by which Congress establishes the maximum amount veterans may borrow through the VA home loan guaranty program.

This legislation would index the maximum VA guaranty loan amount at 100 percent of the Freddie Mac conforming loan limit. Under the current system, a specific dollar figure for the VA maximum loan amount is set by legislation. The maximum loan limit has not been changed since 2001. The current maximum guaranty is $60,000, which allows veterans to secure loans to purchase homes costing up to $240,000. Since that time, the Freddie Mac conforming loan rate has increased by over 18 percent. Sadly, the VA loan limit has not kept pace and currently represents only 74 percent of the Freddie Mac conforming loan limit. The change would also allow for annual adjustments to the amounts available to veterans, without annual legislation, ensuring that the VA home loan guaranty benefit remain viable in competitive housing markets.

In 1999, Congress passed legislation that changed the Federal Housing Administration (FHA) Loan Program and permanently indexed FHA loans at 87 percent of the Freddie Mac conforming loan limit. Why should we penalize the buying power of our veterans by maintaining a system that has failed to keep pace with annual increases in housing costs throughout the United States? To recognize this service and sacrifice, it only seems right that the loan limit available to veterans be set at a higher rate than the FHA limit. By indexing the VA loan limit at 100 percent, the current VA maximum loan amount would increase from $240,000 to $333,700 and give our veterans greater buying power in a national housing market where the cost of a home continues to rise.

In addition, the Congressional Budget Office, known as CBO, has informally projected that from 2005 to 2009 this increase will help over 10,000 new buyers participate in the VA Loan Guaranty Program. The Budget Office has also projected that the increase in new veteran buyers would generate savings of more than $200 million over the next five years. These savings will then be passed on to our veterans in the form of increased education and training opportunities.

We must fight to ensure that veterans' education benefits are as flexible as those who left their homes and served freedom around the globe at their country's call to service. And, in keeping with the original intent of the G.I. Bill, raising the VA home loan guaranty limit would help more veterans realize the American dream of owning a home of their own. I urge my colleagues to join me in supporting these worthwhile efforts.

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

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

S. 2534

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 ''Montgomery GI Bill for the 21st Century Act''.

SEC. 2. EXCLUSION OF BASIC PAY CONTRIBUTIONS FOR PARTICIPATION IN BASIC EDUCATIONAL ASSISTANCE IN CERTAIN COMPUTATIONS ON STUDENT FINANCIAL AID.

(a) EXCLUSION.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 3020A. Exclusion of basic pay contributions in certain computations on student financial aid

''(a) IN GENERAL.—The expected family contribution computed under section 475, 476, or 477 of the Higher Education Act of 1965 (20 U.S.C. 1087oo, 1087pp, 1087qq) for a covered student shall be decreased by $1,200 for the applicable year.

''(b) DEFINITIONS.—In this section:

''(1) The term 'academic year' has the meaning given the term in section 481(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(2)).

''(2) The term 'applicable year' means the first academic year for which a student uses entitlement to basic educational assistance under this chapter.

''(3) The term 'covered student' means any individual entitled to basic educational assistance under this chapter whose basic pay or voluntary separation incentives was or were subject to reduction under section 3011(b), 3012(c), 3018(c), 3018A(b), or 3018B(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3020 the following new item:

''3020A. Exclusion of basic pay contributions in certain computations on student financial aid.''.

SEC. 3. OPPORTUNITY FOR ENROLLMENT IN BASIC EDUCATIONAL ASSISTANCE PROGRAM OF CERTAIN INDIVIDUALS WHO PARTICIPATED OR WERE ELIGIBLE TO PARTICIPATE IN POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE PROGRAM.

(a) OPPORTUNITY FOR ENROLLMENT.—Section 3018C(e) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting ''or (3)'' after ''paragraph (2)'';

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(3) by inserting after paragraph (2) the following new paragraph (3):

''(3) A qualified individual referred to in paragraph (1) is also an individual who meets each of the following requirements:

''(A) The individual is a participant in the educational benefits program under chapter 32 of this title as of the date of the enactment of the Montgomery GI Bill for the 21st Century Act, or was eligible to participate in such program, but had not participated in that program or any other educational benefits program under this title, as of that date.

''(B) The individual meets the requirements of subsection (a)(3).

''(C) The individual, when discharged or released from active duty, is discharged or released therefrom with an honorable discharge.'';

(4) in paragraph (5), as so redesignated, by striking ''paragraph (3)(A)(ii)'' and inserting ''paragraph (4)(A)(ii)''; and

(5) in paragraph (6), as so redesignated, by inserting '', or individuals eligible to participate in that program who have not participated in that program or any other educational benefits program under this title,'' after ''chapter 32 of this title''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 3018C. Opportunity to enroll: certain VEAP participants; certain individuals eligible for participation in VEAP''.

(2) The table of sections at the beginning of chapter 30 of such title is amended by striking the item relating to section 3018C and inserting the following new item:

''3018C. Opportunity to enroll: certain VEAP participants; certain individuals eligible for participation in VEAP.''.

SEC. 4. COMMENCEMENT OF 10-YEAR DELIMITING PERIOD FOR VETERANS, SURVIVORS, AND DEPENDENTS WHO ENROLL IN TRAINING PROGRAM.

(a) VETERANS.—Section 3031 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''through (g), and subject to subsection (h)'' and inserting ''through (h), and subject to subsection (i)'';

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

''(h) In the case of an individual eligible for educational assistance under this chapter who, during the 10-year period described in subsection (a) of this section, enrolls in a program of training under this chapter, the period during which the individual may use the individual's entitlement to educational assistance under this chapter expires on the last day of the 10-year period beginning on the first day of the individual's pursuit of such program of training.''.

(b) ELIGIBLE CHILDREN.—Subsection (a) of section 3512 of such title is amended—

(1) in paragraph (6)(B), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(8) if the person enrolls in a program of special restorative training under subchapter V of this chapter, such period shall begin on the first day of the person's pursuit of such program of special restorative training.''.

(c) ELIGIBLE SURVIVING SPOUSES.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

''(3) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in section 3501(a)(1)(B) or (D)(ii) of this title) who, during the 10-year period described in paragraph (1) of this subsection, enrolls in a program of special restorative training under subchapter V of this chapter may be afforded educational assistance under this chapter during the 10-year period beginning on the first day of the individual's pursuit of such program of special restorative training.''.

SEC. 5. AVAILABILITY OF EDUCATION BENEFITS FOR PAYMENT FOR NATIONAL ADMISSIONS EXAMS AND NATIONAL EXAMS FOR CREDIT AT INSTITUTIONS OF HIGHER EDUCATION.

(a) COVERED EXAMS.—Sections 3452(b) and 3501(a)(5) of title 38, United States Code, are each amended by adding at the end the following new sentence: ''Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the SAT, LSAT, GRE, and GMAT exams) and national tests providing an opportunity for course credit at institutions of higher learning (such as the AP exam).''.

(b) AMOUNT OF PAYMENT.—

(1) CHAPTER 30.—Section 3032 of such title is amended by adding at the end the following new subsection:

''(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

(2) CHAPTER 32.—Section 3232 of such title is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

(3) CHAPTER 34.—Section 3482 of such title is amended by adding at the end the following new subsection:

''(i)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

(4) CHAPTER 35.—Section 3532 of such title is amended by adding at the end the following new subsection:

''(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of

higher learning described in section 3501(a)(5) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

SEC. 6. INCREASE IN MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES AND ANNUAL INDEXING OF AMOUNT.

(a) MAXIMUM LOAN GUARANTY BASED ON 100 PERCENT OF FREDDIE MAC CONFORMING LOAN RATE.—Section 3703(a)(1) of title 38, United States Code, is amended by striking ''$60,000'' each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting ''the maximum guaranty amount (as defined in subparagraph (C))''.

(b) DEFINITION.—Such section is further amended by adding at the end the following new subparagraph:

''(C) In this paragraph, the term 'maximum guaranty amount' means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 380—HONORING THE DETROIT PISTONS ON WINNING THE NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP ON JUNE 15, 2004.

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 380

Whereas the Detroit Pistons finished second in the Central Division of the Eastern Conference and won the National Basketball Association (NBA) World Championship for the first time since winning back to back Championships in 1989 and 1990;

Whereas the Detroit Pistons is the first Eastern Conference team to win the Championship since 1998;

Whereas the Detroit Pistons by defeating the heavily-favored Los Angeles Lakers 4 games to 1 showed grit, determination, discipline, and unity, thereby securing their third National Basketball Association World Championship;

Whereas the Detroit Pistons completed an incredible season with strong performances from many key players, including Finals Most Valuable Player Chauncey Billups, two-time Defensive Player of the Year Ben Wallace, a new head coach in Larry Brown and savvy front office executives such as Joe Dumars;

Whereas Detroit Pistons owner Bill Davidson became the first owner to win an NBA and WNBA championship, as well as the Stanley Cup championship, in the span of 12 months;

Whereas President of Basketball Operations Joe Dumars built a cohesive championship team through smart draft choices, key free agent signings and bold trades, including the mid-season acquisition of Rasheed Wallace, a vital part of the Pistons' impenetrable frontline;

Whereas Detroit Pistons Head Coach Larry Brown, the oldest coach to win an NBA Championship, became the first coach to win both an NBA and NCAA championship;

Whereas each member of the Detroit Pistons roster, including Chauncey Billups, Elden Campbell, Tremaine Fowlkes, Darvin Ham, Richard Hamilton, Lindsey Hunter, Mike James, Darko Milicic, Mehmet Okur, Tayshaun Prince, Ben Wallace, Rasheed Wallace, Corliss Williamson, made meaningful contributions to the success of the basketball team and proved once again that the whole can be greater than the sum of its parts;

Whereas Detroit Pistons fans made a meaningful contribution to the success of their basketball team through their energy and passion which was on display throughout the regular season and playoffs at the Palace at Auburn Hills;

Whereas the Detroit Pistons became the first team in NBA Finals history to win games 3, 4, and 5 on their home court since the NBA returned to its current format in 1985;

Whereas in honor of the Detroit Pistons' championship, the Palace of Auburn Hills is officially changing its address to Four Championship Drive; and

Whereas the Detroit Pistons have demonstrated great strength, skill, and perseverance during the 2003–2004 season and have made the entire State of Michigan proud: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Detroit Pistons on winning the 2004 National Basketball Association Championship and recognizes all the players, coaches, support staff, and fans who were instrumental in this achievement; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Detroit Pistons for appropriate display.

SENATE RESOLUTION 381—RECOGNIZING THE ACCOMPLISHMENTS AND SIGNIFICANT CONTRIBUTIONS OF RAY CHARLES TO THE WORLD OF MUSIC

Mr. NELSON of Florida (for himself, Mr. MILLER, Mr. CHAMBLISS, Mr. GRAHAM of Florida, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 381

Whereas Ray Charles, born Ray Charles Robinson on September 23, 1930, to Bailey and Aretha Robinson in Albany, Georgia, was one of the greatest musical artists of the United States;

Whereas Ray Charles, who as an infant moved with his family to Greenville, Florida, and, after suffering an illness that left him blind, attended the St. Augustine School for the Deaf and Blind from 1937 to 1945, where he learned not only how to read Braille, but how to write music and play the piano, trumpet, clarinet, and alto saxophone;

Whereas during the course of his 58-year career, Ray Charles defied easy classification, as his music spanned all genres, and many talented musicians from the world of rhythm and blues, popular music, jazz, gospel, country, and rock and roll have noted his strong influence on their careers;

Whereas his talent has long been recognized by the recording industry and his many fans, as he has received 12 Grammy Awards, with the first in 1960 and the most recent award in 1993, and had 32 of his songs reach the national Billboard's top 40 pop charts between 1957 and 1971;

Whereas his influence and contributions to the world are evidenced by the numerous honors he has received from organizations, and institutions, including: the Blues Foundation's Hall of Fame, Rock and Roll Hall of Fame, Songwriters Hall of Fame, Georgia Music Hall of Fame, Florida Artists Hall of Fame, a Lifetime Achievement Award as part of the Black Achievement Awards television show sponsored by Johnson Publishing Company, a star on the Hollywood Walk of Fame, the Helen Keller Personal Achievement Award from the American Foundation for the Blind, and an honorary doctorate of fine arts from the University of South Florida in Tampa;

Whereas Ray Charles has received praise from Republican and Democratic Administrations with the adoption of ''Georgia on My Mind'' as the Georgia State song in 1979, an invitation in 1984 to perform at the Republican National Convention and President Reagan's inaugural ball in 1985, recognition in 1986 as a legend by the Kennedy Center Honors, and the presentation of a National Medal of Arts by President Clinton in 1993;

Whereas Ray Charles was a great humanitarian and activist who provided financial support to Dr. Martin Luther King, Jr., during the civil rights struggle, and joined with other recording artists to record ''We Are the World'', a project that brought world awareness and financial assistance to the millions dying from starvation in Africa;

Whereas during the course of his life he persevered, overcoming the tremendous obstacles that he encountered in the early stages of his career due to racism and prejudice because of his blindness, to become one of the greatest and defining musical talents of all time; and

Whereas this great American, Ray Charles, died on June 10, 2004: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Ray Charles as one of the greatest American musicians of all time;

(2) honors Ray Charles for his contributions to music, culture, community, and the United States;

(3) offers its appreciation to Ray Charles for sharing his musical gifts with the world; and

(4) extends its deepest sympathy to the family and the loved ones of Ray Charles.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3452. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

TEXT OF AMENDMENTS

SA 3452. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows: