personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3445

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3445 intended to be 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida (for himself and Mr. DURBIN):

S. 2535. A bill to amend title XVIII of the Social Security Act to modernize the medicare program by ensuring that appropriate preventive services are covered under such program; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I am very pleased to introduce the Medicare Preventive Services Coverage Act of 2004, and to be joined by Senator RICHARD DURBIN.

This legislation would change the basic charter of Medicare to one that not only diagnoses and treats, but also prevents illness.

On July 30, 1965, Medicare was created under title 18 of the Social Security Act to provide health insurance coverage for the elderly.

The coverage provided through the program was limited to diagnostic and treatment services that were considered reasonable and necessary.

There was little demand to cover preventive services under Medicare or any other health plan at that time because we were not yet cognizant of the vital role of prevention on the health and quality of human life.

The basic charter of Medicare reflects this lack of understanding.

However, since Medicare's inception, we have learned a lot about the enormous burden of chronic disease on our Nation.

According to the Centers for Disease Control and Prevention, CDC, more than 1.7 million Americans die of a chronic disease each year, accounting for about 70 percent of all deaths.

Not only does chronic disease lead to a majority of deaths and disabilities in America, it also accounts for about 75 percent of health care costs each year, placing a huge economic demand on our Nation.

Medicare bears a lion's share of this cost. In 2003, Medicare spent nearly $7,000 per beneficiary; much of this cost is attributable to treating chronic illnesses.

The percentage of the population over age 65 has increased dramatically and will continue to do so. This will place an even greater economic burden on Medicare.

What is the bottom line? In short, Medicare cannot afford this spiraling cost.

The good news is that we now have decades of research demonstrating that although chronic diseases are the most common and costly of all health problems, they are also the most preventable.

For example, according to the CDC regular eye exams and timely treatment could prevent up to 90 percent of diabetes related blindness.

Eye chart screening for visual acuity is currently recommended by the United States Preventive Services Task Force, USPSTF, but is not covered by Meidcare.

The impact of prevention on chronic disease is well known by the President's Secretary for Health and Human Services.

HHS Secretary Thompson said in September 2003:

> There is clear evidence that the costs of chronic conditions are enormous, as are the potential savings from preventing them, even if there may not always be agreement on the exact amounts of these cost savings.

He goes on to say:

> . . . the Nation simply cannot afford not to step up efforts to reverse the growing prevalence of chronic disorders. Resources and energy need to be marshaled in all sectors and at all levels of society.

Partnership for Prevention, a Washington, DC, think tank on health policy takes Thompson's comments one step further. A recent Partnership report makes the following logical assumption:

> As the primary source of health insurance coverage for millions of older Americans and persons with permanent disabilities, Medicare has the potential to have a substantial impact on the health of beneficiaries by promoting and covering cost-effective preventive services.

Congress has added coverage for some preventive services over the last two decades, including the flu vaccine, mammograms, and cancer screening.

As HHS does not have the authority to add preventive services to Medicare—despite the growing body of evidence that has proved their efficacy—these benefits were only added to Medicare because of congressional action.

The benefits that Congress have added are extremely important, and I am glad that we have taken the steps to make them available to our seniors.

However, the congressional process is slow, and subject to political winds and influences that are not always based purely in science.

The legislation I am introducing would change the basic charter of Medicare from a program focused on diagnosing and treating illnesses to one that also prevents illnesses by giving the Department of Health and Human Services the authority to make coverage decisions for preventive services.

Why change the current system of passing legislation each time we want to add coverage of preventive service to Medicare? There are some very logical reasons.

The reliance on Congress to cover preventive services has resulted in: Coverage for only half of clinical preventive services that experts recommend for the 65+ age group; coverage that not only fails to keep up with changes in scientific evidence but is often in consistent with authoritative recommendations; a confusing array of cost sharing requirements across covered preventive services; and lack of coverage of some preventive services that provide great health benefits in favor of others that do not meet current evidence standards as a result of vocal advocacy groups.

Luckily, the fundamental reform of the program that I am proposing does not require extensive statutory or bureaucratic change.

Medicare already has a process in place for the Secretary of Health and Human Services to make coverage decisions on diagnostic, treatment, and durable medical equipment options.

My bill would authorize the Secretary to make coverage decisions on preventive services using that same process, based on the recommendations of the federally-convened United States Preventive Services Task Force, USPSTF, and other groups.

This authorization would not entail dramatic new administrative expenses or a major reorganization of CMS coverage processes and staff.

My legislation would put preventive services on an equal footing with diagnostic and treatment services by allowing the Secretary to make coverage decisions for all services needed to prevent, diagnose, and treat illness.

Providing beneficiaries with the most cost-effective and current preventive services should no longer require an ''Act of Congress.''

It should, instead, require the insight of the experts in the field, and be based on the same careful process HHS is currently using.

Let us untie their hands and improve the lives of our Medicare beneficiaries by building coverage of preventive services into the currently established coverage decision process.

This legislation is supported by the following groups: American College of Preventive Medicine; HealthPartners; Deafness Research Foundation; Partnership for Prevention; American Dietetic Association; American Public Health Association; Families USA; American Physical Therapy Association; American Academy of Family Physicians; United Cerebral Palsy Association; National Mental Health Association; Campaign for Tobacco-Free Kids, and the Emergency Department Practice Management Association.

If Medicare were created today, it would certainly not exclude coverage of preventive services.

Today we know how important preventive services are; they save money and lives. Let us give Medicare the authority to do its job.

I urge my colleagues to join me in sponsoring this important piece of legislation.

I ask unanimous consent to print letters of support from the above-listed groups in the RECORD.

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

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, June 1, 2004.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the American Public Health Association (APHA), the largest and oldest organization of public health professionals in the country, representing more than 50,000 members from over 50 public health occupations, I write in support of the Medicare Preventive Services Coverage Act of 2004.

As outlined in position paper 7633, ''Policy Statement on Prevention,'' APHA has long supported measures to increasingly utilize the fund preventive services in federal health programs. In this vein, the Medicare Preventive Services Coverage Act of 2004 demonstrates a significant commitment to addressing the underlying factors responsible for the underutilization of prevention strategies that optimize the health and independence of the elderly by granting the Secretary the authority to approve Medicare coverage of preventive services based on recommendations of the U.S. Preventive Services Task Force and other groups. By allowing decisions about coverage of preventive services to be made in the same timely, evidence-based manner as other services under Medicare, the legislation would enable Medicare to take a vital step towards focusing more on disease prevention, which is cost-effective and has the ability to prevent or delay the occurrence of chronic disease.

Since the creation of Medicare, the American Public Health Association has supported measures to protect Medicare beneficiaries against significant financial exposure that imposes barriers to the receipt of needed care. The provisions of the Medicare Preventive Services Act of 2004 that aim to eliminate co-payments and deductibles from all future preventive benefits serve to ensure that Medicare beneficiaries will not be restricted from accessing needed preventive medical care because of financial hardship.

Thank you for your attention to and leadership on this important public health issue. We look forward to working with you to move legislation forward this year.

Sincerely
GEORGES C. BENJAMIN, MD, FACP,
Executive Director.

JUNE 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: Congratulations on the introduction of your new legislation to provide a permanent solution to Medicare's long-standing failure to cover appropriate preventive health services. Families USA, the health consumer advocacy organization, strongly endorses your effort.

Currently, life-saving and life-improving preventive screening services have been covered only by an act of Congress—and usually only after long and difficult debates. Your proposal will place this basic scientific and technical issue in the excellent medical staff of the Centers for Medicare and Medicaid Services, where decisions can be made on a more timely, professional and scientific basis. We believe that this will help ensure that important preventive care services will be implemented in a more timely and rational way. The result will be an improvement in the quality of life of Medicare beneficiaries.

Congratulations again on this proposal—one of a long-line of creative and helpful health initiatives that you have championed in your outstanding Senate career.

Sincerely,
RONALD F. POLLACK,
Executive Director.

AMERICAN PHYSICAL THERAPY ASSOCIATION,
Alexandria, VA, June 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the 64,000 members of the American Physical Therapy Association (APTA), I commend you for your efforts to promote the full continuum of health care for our nation's seniors and persons with disabilities served by the Medicare program. APTA appreciates the introduction of your legislation, the Medicare Preventative Services Coverage Act of 2004 and fully supports its enactment by the 108th Congress. Prevention services are an essential part of the health care continuum that needs better integration into the Medicare program, and your legislation goes a long way toward achieving that objective.

Physical therapists provide prevention services that forestall or prevent functional decline and the need for more intense care. Through timely and appropriate screening, examination, evaluation, diagnosis, prognosis, and intervention, physical therapists frequently reduce or eliminate the need for more costly forms of care and also may shorten or even eliminate institutional stays. Physical therapists are actively involved in promoting health, wellness and fitness initiatives, including the provision of services and education of patients that stimulate the public to engage in healthy behaviors. An example of physical therapist involvement in preventive services is the use of therapeutic interventions to improve strength, mobility, and balance to reduce falls that often lead to more costly health care and disability under Medicare.

Thank you for your commitment to improving the Medicare program. The addition of appropriate preventative services to the Medicare program will help our nations' seniors and persons with disability lead more healthy and productive lives within our communities. Please feel free to contact Justin Moore on APTA's Government Affairs staff at justinmoore@apta.org or 703/706–3162, if you have any questions or need additional information.

Sicnerely,
BEN F. MASSEY, Jr., PT, MA,
President.

AMERICAN ACADEMY OF FAMILY PHYSICIANS,
Washington, DC, June 9, 2004.

Hon. ROBERT GRAHAM,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: Thank you for the opportunity to review the draft of your legislation, the Medicare Preventive Services Coverage Act. On behalf of the 93,700 members of the American Academy of Family Physicians, I am pleased to inform you that the AAFP strongly endorses the bill, and we congratulate you for your efforts on behalf of the nation's seniors.

This legislation would help make Medicare more responsive to the people that it directly serves. By allowing CMS to cover preventive services that are based on evidence and current science and that have been reviewed and approved by the United States Preventive Services Task Force and other appropriate organizations, the bill helps direct Medicare toward proven health care services that will keep seniors healthier. The AAFP commends your commitment to evidence-based measures that will prevent accidents and illness and provide more effective health care. We believe that sound science should always be the basis of medical decisions.

The Academy would urge you and your colleagues in Congress to consider giving CMS the authority to review current preventive services in the light of the U.S. Preventive Services Task Force recommendations and to alter reimbursement accordingly. And we would also suggest that Congress might want to make more explicit the agency's authority to review and revise payments as the evidence of previously approved services changes.

Thank you, Senator Graham, for your commitment to the health of Medicare patients and for your leadership in improving this important program that serves them.

Sincerely,
JAMES C. MARTIN, MD, FAAFP,
Board Chair.

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
June 4, 2004.

The American College of Preventive Medicine (ACPM) is very pleased to support Senator Bob Graham's bill granting the Secretary of Health and Human Services the authority to approve Medicare coverage of preventive medical services from the recommendations of the United States Preventive Services Task Force (USPSTF) and other appropriate organizations.

As the representative organization for preventive medicine physicians, ACPM understands the potential long-term benefits from clinical preventive services supported by evidence to have a beneficial impact on survival and quality of life. As the population of the United States ages, preventive services will become the best strategy to keep people healthy and to conserve medical expenditures.

Therefore, the ACPM offers its full support of Senator Graham's proposed legislation to include preventive services under Medicare coverage.

MIKE BARRY,
Deputy Director.

AMERICAN DIETETIC ASSOCIATION,
Chicago, IL, June 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The American Dietetic Association (ADA) is the largest organization of food and nutrition professionals in the U.S. We promote optimal nutrition and well being of all people, by relying on evidence-based practices and policies. To that end, ADA is pleased to support the Medicare Preventive Services Coverage Act of 2004.

Nutrition is a critical element to any comprehensive health care program and in particular preventive services. According to the Department of Health and Human Services, 40 percent of Americans age 40 to 74 suffer from pre-diabetes. The evidence shows that proper nutrition and physical activity can prevent many, if not most of these Americans from developing type II diabetes. In cardiovascular care, the evidence shows that proper preventive nutrition intervention can slow or reverse conditions such as hypertension or dyslipidemia. Unfortunately, Medicare does not recognize the importance of preventive care in general and preventive nutrition therapy specifically.

When Congress passed the Medicare Modernization Act last year, it included a new provision for preventive care under Sec. 611,

the Initial Preventive Physical Examination. While referral to medical nutrition therapy is specifically mentioned in the bill, CMS is interpreting this new language as limited to only those diseases (diabetes and renal) that are already eligible for MNT. As a result of this interpretation, patients diagnosed during the initial preventive physical exam as having pre-diabetes, must wait until their conditions progress to type II diabetes before Medicare will cover nutrition therapy.

Such an approach to preventive care is poor health policy and poor fiscal management of the program. Your Medicare Preventive Services Coverage Act if enacted, will promote preventive care within Medicare to the status it deserves. ADA commends your efforts and foresight.

Sincerely,

RONALD E. SMITH,
Director of Government Relations.

CAMPAIGN FOR
TOBACCO-FREE KIDS,
June 14, 2004.

Hon. BOB GRAHAM,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: The Campaign for Tobacco-Free Kids is pleased to lend its support to your bill, The Medicare Preventive Services Coverage Act of 2004.

This bill will help provide the scientific foundation and evidence-based decisions that are critical for ensuring that the Medicare program provides the most effective preventive services to all Medicare beneficiaries. This bill will help shift the emphasis of the Medicare program from treating illness to one where the focus is more on wellness, health promotion and prevention. With nearly three-quarters of all illnesses in this country related to preventable conditions such as tobacco use, lack of proper nutrition and physical fitness, obesity and diabetes, it makes perfect health and fiscal sense to enact such changes into the Medicare program.

With the recent inclusion of prescription drug coverage to the Medicare program, including coverage for prescription tobacco use cessation medications such as nicotine nasal spray and bupropion SR, this bill represents a tremendous opportunity to enhance and compliment this new coverage through the provision of tobacco use cessation counseling services. According to the U.S. Preventive Services Task Force, next to childhood immunizations, tobacco cessation counseling is the most clinically effective preventive service that we have. Furthermore, we know that counseling services double the number of successful quit smoking attempts versus people who try to quit ''cold turkey''. And when combined with medications, there is nearly a four-fold increase in successful quit attempts. With about 10 percent of all Medicare beneficiaries still smoking, about 4.5 million people, such a benefit would have a tremendous impact on the health and quality of life of our nation's seniors.

Again, the Campaign for Tobacco-Free Kids is proud to support this important piece of public health legislation.

Sincerely,

MATTHEW L. MYERS,
President.

PARTNERSHIP FOR PREVENTION,
Washington, DC, June 2, 2004.

Hon. BOB GRAHAM,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: Thank you for requesting Partnership for Prevention's comments on Medicare policy concerning disease prevention and health promotion.

Partnership strongly recommends that Congress modernize Medicare by directing the Centers for Medicare and Medicaid Services to make coverage decisions for disease prevention and health promotion services based on evidence-based recommendations such as those of the U.S. Preventive Services Task Force and the Advisory Committee on Immunization Practices. This was one of the principal policy recommendations in Partnership's 2003 report, A Better Medicare for Healthier Seniors: Recommendations to Modernize Medicare's Prevention Policies. We understand that you plan to introduce legislation that would bring about such a policy change.

When Congress created Medicare in 1965, it designed the program based on the knowledge of health, medicine and health care at that time. Thus, Medicare focused on hospitalization and visits to doctors' offices to treat or diagnose seniors who were already showing signs of illness. Medicine has made great progress since then, including development of proven ways to prevent disease and promote longer, healthier lives. But Medicare has consistently lagged behind the curve, failing to cover proven disease prevention and health promotion services or providing coverage years later than private insurers.

Allowing Medicare coverage decisions for preventive services to be made following a similar process as diagnosis and treatment decisions is an important step in modernizing Medicare. It is also critical that these coverage decisions be informed by systematic reviews of evidence conducted by independent experts, such as the U.S. Preventive Services Task Force. We understand that your bill would address these issues and enable Medicare to keep pace with progress in preventive medicine and health promotion.

Partnership's Better Medicare report also noted that use rates for most preventive services that are covered by Medicare fall short of national targets, in part because of a confusing array of cost sharing requirements, such as deductibles and co-payments for these services. We understand that your bill would eliminate these impediments for preventive services covered in the future.

Most Americans understand that it is preferable to help people stay healthy instead of waiting to treat them after they become sick. It is in our nation's interest for seniors to be healthy instead of infirm, active instead of hospitalized, productive instead of costly, independent instead of dependent. Cost-saving and cost-effective disease prevention and health promotion are sound investments for our country.

Thank you again for requesting our comments on these important facets of Medicare policy.

Sincerely,

JOHN M. CLYMER,
President.

DEAFNESS RESEARCH FOUNDATION,
Washington, DC, June 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the Deafness Research Foundation and World Council on Hearing Health, we fully support the Amendment to Title XVII of the Social Security Act to modernize the Medicare program so as to ensure preventive services be covered under the program.

The Deafness Research Foundation and its public education and advocacy arm, called the World Council on Hearing Health's mission is to make a lifetime of hearing possible for all people through quality research, public education and advocacy. We espouse the program platforms of detection, prevention, intervention and research about hearing loss. Therefore, we fully support your draft bill that will allow for the Secretary of Health and Human Services be granted the authority to approve Medicare coverage of preventive services based on recommendations of the U.S. Preventive Services Task Force and other organizations if enacted.

Early detection of hearing loss through regular hearing checkups (at least once every two years) from childhood to adulthood is a key to early intervention as needed. For babies and children it is especially important so their educational, emotional and social development is not halted nor compromised. In adults, early detection of hearing loss is the best prevention against further damaging one's hearing not to mention the impact hearing loss can have on one's career and quality of life. In the elderly, the ability to diagnose hearing loss early on is an imperative to combat misdiagnoses of dementia and senility.

We commend you on taking the initiative to propose this bill and we will tell the 40,000 donors and members of Deafness Research Foundation to fervently follow its progress.

Sincerely,

SUSAN GRECO,
Executive Director.

JUNE 3, 2004.

Hon. ROBERT GRAHAM,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing on behalf of HealthPartners in support of the ''Medicare Preventive Services Coverage Act of 2004''. HealthPartners is a consumer-governed family of nonprofit Minnesota health care organizations focused on improving the health of its members, its patients and the community. HealthPartners and its related organizations provide health care services, insurance and HMO coverage to more than 670,000 members. The key features of this bill would go far in helping to improve the health of Medicare enrollees.

This bill would put disease prevention on a level playing field with disease detection and treatment under Medicare. It would also permit preventive service coverage decisions to be based on evidence. We believe strongly that appropriate preventive services should be included in the Medicare benefit set and that those benefits should be evidence-based. Using the United States Preventive Services Task Force (and other appropriate organizations') recommendations as a guide for the addition of preventive services is an excellent step.

We encourage the Secretary and Congress to continue to focus benefits in both the Medicare and Medicaid programs on evidence based medicine. Evidence based care provides the structure for the right services to be delivered at the right time in the right location for enrollees of all ages. This, in turn, supports achieving the six aims for care as outlined by the Institute of Medicine: care that is patient-centered, timely, effective, efficient, equitable and safe. We support your efforts to achieve these ends.

Sincerely,

GEORGE ISHAM, M.D.,
Medical Director and
Chief Health Officer.

EMERGENCY DEPARTMENT PRACTICE
MANAGEMENT ASSOCIATION,
McLean, VA, June 16, 2004.

Hon. SENATOR GRAHAM,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: Thank you for the opportunity to review your draft legislation, the Medicare Preventive Services Coverage Act. On behalf of the Emergency Department Practice Management Association's members, we congratulate you on your efforts in

this area and strongly support this legislation as it reflects sound health policy.

EDPMA members work with their hospital partners to provide quality patient care in the emergency departments across the country. As you know, overcrowding in emergency departments is a serious problem. By expanding Medicare's coverage of preventative services, we believe that Medicare patients will have incentives to get treatment in less acute settings.

Emergency departments are a key element of the nation's safety net. While we support expansion of Medicare benefits, we believe it is of critical importance that Medicare's physician fee schedule appropriately capture emergency physician's uncompensated care costs. We look forward to working with you to address this problem.

Like you, EPDMA is dedicated to providing quality care to Medicare's patients. We join you in support of this legislation and appreciate your on-going leadership in health policy.

Sincerely,

EMILY R. WILSON,
Managing Director.

NATIONAL MENTAL HEALTH ASSOCIATION,
Alexandria, VA, June 16, 2004.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the National Mental Health Association (NMHA), I am writing to commend you for introducing the Medicare Preventive Services Coverage Act of 2004. Prevention and early detection of mental illness are critical components to ensuring overall well-being that have long been overlooked, particularly with regard to Medicare beneficiaries. Your bill represents a major step forward in recognizing that mental illness can be prevented and successfully treated, especially if detected early. Prevention services provided through this legislation will undoubtedly lead to improved access to and utilization of mental health treatment among a population in which mental illness has been severely under-diagnosed.

NMHA is the nation's oldest and largest advocacy organization addressing all aspects of mental health and mental illness. With more than 340 affiliates nationwide, we work to improve the mental health of all Americans through advocacy, education, research, and service. Prevention of mental illness is a key element of our mission, and we are heartened by your efforts to ensure that Medicare beneficiaries receive a full complement of preventive services, including mental health services.

As you know, mental illness affects a very large segment of the Medicare population, but few receive the treatment they need. According to the Surgeon General's 1999 Report on Mental Health, some 20 percent of those 55 and older experience specific mental disorders that are not part of normal aging, including phobias, obsessive-compulsive disorder, and depression, and 40 percent of those on Medicare because of a disability, face mental illness. Major depression is particularly prevalent among older Americans: in primary care settings, 37 percent of seniors display symptoms of depression.

However, all too often seniors and people with disabilities struggle with mental illness alone and without treatment and support. It is estimated that only half of older adults who acknowledge mental health problems actually are treated. A very small percentage of older adults—less than 3 percent—report seeing mental health professionals for treatment. This lack of care has tragic consequences as illustrated by the fact that Americans 65 and older have the highest rate of suicide in the country, accounting for 20 percent of suicide deaths.

The President's New Freedom Commission on Mental Health found that ''[t]he number of older adults with mental illnesses is expected to double to 15 million in the next 30 years [and that] [m]ental illnesses have a significant impact on the health and functioning of older people and are associated with increased health care use and higher costs.'' New Freedom Commission on Mental Health, Achieving the Promise: Transforming Mental Health Care in America. Final Report, p. 59. The Commission recommended that ''[a]ny effort to strengthen or improve the Medicare and Medicaid programs should offer beneficiaries options to effectively use the most up-to-date [mental health] treatments and services.'' Id., p. 26.

Early detection and intervention services are essential for preventing mental health problems from compounding and for lessening long-term disability that can result from mental illness. The President's Commission stated that early assessment and treatment are critical across the life span and found that ''[n]ew understanding of the brain indicates that early identification and intervention can sharply improve outcomes and that longer periods of abnormal thoughts and behavior have cumulative effects and can limit capacity for recovery.'' Id., p. 57. Numerous studies have indicated that prevention and early intervention services for seniors result in improved mental health conditions, positive behavioral changes, and decreased use of inpatient care.

Thank you again for introducing the Medicare Preventive Services Coverage Act of 2004. By incorporating preventive mental health services into the Medicare program, this bill will substantially improve access to treatment for a population with tremendous mental health needs.

Sincerely,

MICHAEL M. FAENZA, MSSW,
President and CEO.

Hon. BOB GRAHAM,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR GRAHAM: United Cerebral Palsy would like to lend our wholehearted support to the Medicare Preventive Services Coverage Act of 2004 that would amend the Social Security Act and the Medicare Prescription Drug Improvement and Modernization Act of 2003 to make a broad array of preventive health care services a standard part of Medicare. To date, the Congress has added selected preventive services to Medicare but has not included other services that are proven effective; nor has it encouraged Medicare to take a comprehensive approach to disease prevention and health promotion for American seniors and people with disabilities. Passage of this legislation would mean that, for the first time and to the benefit of millions of Americans, prevention would be placed on a level playing field with disease detection, diagnosis and treatment under Medicare.

We thank you for recognizing that prevention is a good investment, diminishing disability and discomfort, leading to less time spent in hospitals and in nursing homes and more time spent at home and in the community. In many cases, effective preventive services will generate cost savings for Medicare, as well as providing beneficiaries with more productive years of life.

About one in eight of Medicare's 40+ million beneficiaries, about 5 million people, are people with disabilities under age 65, people who have worked and become disabled, or who are the adult dependents or survivors of eligible workers. According to the National Economic Council, these beneficiaries are 35 percent less likely to have any sort of employer-based coverage, compared to elderly beneficiaries who sometimes have coverage through retiree health plans. Thus, access to any prevention benefits outside their Medicare coverage is severely limited.

For individuals with disabilities, prevention is truly no less important than medical treatment. A primary disability can often mean that a person is extremely at risk for, or susceptible to, secondary health or disabling conditions. Compounding this fact is the fact that many of these secondary conditions may be low-incidence conditions that affect only a small population and would, therefore, not necessarily be those that come to the attention of Congress when new coverage decisions are made.

Additionally, as people with a wide range of disabilities grow older, the impact of their disability may lead to premature occurrence of age-related conditions. Clearly, the Medicare Preventive Services Coverage Acts of 2004 would be of great assistance to these beneficiaries by allowing decisions about coverage of preventive services to be made in the same manner as coverage decisions for other services, making preventive service coverage decisions more timely, individualized and evidence-based.

We are also pleased that the bill would eliminate co-payments and deductibles from all future preventive benefits. There is currently a confusing array of cost-sharing requirements across Medicare's covered preventive benefits, and Medicare beneficiaries with disabilities are more likely to have lower incomes. By definition, people receiving disability insurance often are unable to engage in full-time work due to their conditions, and more than three-fourths of these beneficiaries have income below 200 percent of the poverty level, compared to half of elderly beneficiaries.

United Cerebral Palsy wishes you the best and offers our support in gaining passage of this critical legislation.

Sincerely,

STEPHEN BENNETT,
President and Chief Executive Officer, United Cerebral Palsy.

By Ms. COLLINS (for herself and Mr. WYDEN):

S. 2536. A bill to enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes; to the Committee on Governmental Affairs.

Mr. COLLINS. Mr. President, today Senator WYDEN and I are introducing the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004. It has been a pleasure to work with my colleague from Oregon on this legislation to strengthen protections for civil rights and civil liberties. In the wake of the terrorist attacks on September 11, 2001, during his joint address to Congress, the President called on all Americans to ''uphold the values of America and remember why so many have come here. We're in a fight for our principles, and our first responsibility is to live by them.''

In response to the need to safeguard our homeland, Congress enacted the Homeland Security Act of 2002 that

created the Department of Homeland Security, the most significant government restructuring in more than 50 years. But in focusing our attention on protecting the homeland from future terrorist attacks, we also must ensure that we do not trample on the very values that the terrorists seek to destroy. In enacting the Homeland Security Act, Congress understood the importance of providing checks and balances to protect civil rights and civil liberties. To this end, Congress created within the Department three positions devoted wholly or in part to ensuring respect for civil liberties as the Department carries out its mandate to protect our homeland. These positions are the Officer for Civil Rights and Civil Liberties, the Privacy Officer, and the Department's Inspector General. These three officials have crucial roles in assessing actions of the Department that may affect personal privacy, civil rights, and civil liberties.

The nature of the mission of the Department of Homeland Security makes safeguards especially important. The Department is now our country's biggest law enforcement agency. It has more Federal officers with arrest and firearm authority than the Department of Justice. In addition, DHS law enforcement personnel have contact with thousands of people every day. In this post 9/11 world, DHS law enforcement personnel must be especially sensitive to maintaining civil liberties as they work to strengthen security and detect and deter terrorist attacks.

I am pleased that the leadership of the Department recognizes the fundamental importance of protecting the rights of all of us while fighting terrorism. Under the leadership of Secretary Ridge, the new Department of Homeland Security has won praise for its commitment to the protection of our freedoms. Secretary Ridge has provided the Officer for Civil Rights and Civil Liberties and the Privacy Officer with the tools they need to be effective. These officials have functioned at the senior level, regularly providing advice to the Secretary and his deputies. The Officer for Civil Rights and Civil Liberties, the Privacy Officer and the Inspector General have met regularly with organizations concerned about civil liberties, privacy, human rights, and immigrant rights and have been responsive to their concerns.

It is time for Congress to build on the foundation Secretary Ridge has laid in protecting civil rights and civil liberties. I believe the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 does exactly that.

The bill would write into law the activities of the Officer for Civil Rights and Civil Liberties. As enacted, the Homeland Security Act did not clearly define the duties of that position. Over the past year, however, a strong Officer, with the support of the Department's leadership, has charted an important course for his office. The Officer has worked closely with the senior leadership of the Department. He has assisted in the development of departmental policies to ensure that civil liberties are given due consideration. He has overseen compliance with constitutional and other requirements relating to the rights and liberties of individuals affected by the Department's programs. He has coordinated with the Privacy Officer to ensure that overlapping privacy and civil rights concerns are addressed in a comprehensive way. And he has investigated alleged abuses of civil rights and civil liberties.

None of these activities is expressly addressed in the statutory language creating the Department, and there is no assurance in the law that future Officers for Civil Rights and Civil Liberties will work so energetically to carry out these vital duties. It is time for the law to catch up with practice, and the Homeland Security Civil Rights and Civil Liberties Protection Act ensures that goal.

The bill also clarifies that the Officer for Civil Rights and Civil Liberties as well as the Privacy Officer should report directly to the Secretary, and requires coordination between those officers to ensure an integrated and comprehensive approach to the important issues they address.

The Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 strengthens the ability of the Department's Inspector General to safeguard civil rights and civil liberties by requiring the DHS Inspector General to designate a senior official to coordinate investigation of abuses, ensure public awareness of complaint procedures, and coordinate his or her work with the Officer for Civil Rights and Civil Liberties. This position is similar to one Congress created in the Office of the Inspector General of the Department of Justice.

Finally, the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 amends the mission statement of the Department of Homeland Security to ensure that actions taken by the Department to protect the homeland do not diminish civil liberties and civil rights. This important revision places into the statutory language that the protection of civil rights and civil liberties is crucial in this time of heightened security.

The battle against terror will last for many years, perhaps decades. During that long struggle, we must continue to secure our nation against future attacks, but at the same time protect those American values that define our free society. The Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 will strengthen the protection of civil rights and civil liberties and will help to ensure that that protection will continue in the years to come.

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

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

S. 2536

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 ''Homeland Security Civil Rights and Civil Liberties Protection Act of 2004''.

SEC. 2. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

''(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and''.

SEC. 3. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''report directly to the Secretary and shall'' after ''who shall'';

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

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

''(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

''(5) coordinate with the Privacy Officer to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

''(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.''.

SEC. 4. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

''(2) The senior official designated under paragraph (1) shall—

''(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

''(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

''(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

''(i) alleged abuses of civil rights or civil liberties; and

''(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

''(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

''(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

''(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

''(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

''(ii) the status of investigations initiated in response to public complaints; and

''(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.''.

SEC. 5. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting '', who shall report directly to the Secretary,'' after ''in the Department'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

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

''(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports on such programs, policies, and procedures; and''.

Mr. WYDEN. Mr. President, the threat of terrorism is an unfortunate fact of life today, and it is not going to go away any time soon. Protecting American citizens against this threat will continue to be an essential and urgent task for the foreseeable future.

However, I do not believe that fighting terrorism aggressively requires tossing civil liberties protections into the scrap heap. This is not an ''either or'' choice. This country's tradition of high standards of civil rights and civil liberties should not and need not become the first casualty of the war on terrorism.

I have made this point repeatedly in the time since the terrorist attacks of 9/11. Still, all too often, we have seen well-meaning government agencies take the approach of designing a security system or program first, and worrying about the civil liberties and privacy implications later.

I am convinced that the approach of making civil liberties an afterthought doesn't work and isn't acceptable. Civil liberties and privacy considerations need to be built into the DNA of the Homeland Security Department and its various programs.

The legislation that created the Homeland Security Department included some very positive steps in that regard, by creating an Officer for Civil Rights and Civil Liberties and a Privacy Officer.

Today, I am joining Senator COLLINS in introducing new legislation to flesh out the role and stature of these key offices within the Department.

Specifically, the legislation would add a reference to civil liberties to the statutory mission statement of the Department of Homeland Security. It would provide further detail as to the duties of the Officer for Civil Rights and Civil Liberties. It would specify that both the Officer for Civil Rights and Civil Liberties and the Privacy Officer shall report directly to the Secretary. And it would direct the DHS Inspector General to designate a point person within the I.G. office to focus expressly on civil liberties matters.

None of these items represents a radical departure from the original Homeland Security legislation or the current practice of the department. Rather, this new bill codifies much of what is already going on, giving it a firm statutory basis.

I hope my colleagues will join Senator COLLINS and me in supporting this legislation, and in delivering a strong message that civil liberties matters remain a core factor in this country's homeland security efforts. I ask unanimous consent that the text of the bill be printed in the RECORD.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2538. A bill to provide a grant program to support the establishment and operation of Teachers Institutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, today I am introducing legislation, along with my colleague from Connecticut, Mr. DODD, that will strengthen the content and pedagogy knowledge of our present K–12 teacher workforce and thus ultimately raise student achievement.

My proposal would establish eight new Teacher Professional Development Institutes throughout the Nation each year over the next five years based on the model which has been operating at Yale University for over 25 years. Every Teacher Institute would consist of a partnership between an institution of higher education and the local public school system in which a significant proportion of the students come from low-income households. These Institutes will strengthen the present teacher workforce by giving each participant an opportunity to gain more sophisticated content knowledge and a chance to develop curriculum units with other colleagues that can be directly applied in their classrooms. We know that teachers gain confidence and enthusiasm when they have a deeper understanding of the subject matter that they teach and this translates into higher expectations for their students and thus, an increase in student achievement.

The Teacher Professional Development Institutes are based on the Yale-New Haven Teachers Institute model that has been in existence since 1978. For over 25 years, the Institute has offered six or seven thirteen-session seminars each year, led by Yale faculty, on topics that teachers have selected to enhance their mastery of the specific subject area that they teach. The subject selection process begins with representatives from the Institutes soliciting ideas from teachers throughout the school district for topics on which teachers feel they need to have additional preparation, topics that will assist them in preparing materials they need for their students, or topics that will assist them in addressing the standards that the school district requires. As a consensus emerges about desired seminar subjects, the Institute director identifies university faculty members with the appropriate expertise, interest and desire to lead the seminar. University faculty members, especially those who have led Institute seminars before, may sometimes suggest seminars they would like to lead, and these ideas are circulated by the representatives as well. The final decisions on which seminar topics are offered are ultimately made by the teachers who participate. In this way, the offerings are designed to respond to what teachers believe is needed and useful for both themselves and their students.

The cooperative nature of the Institute seminar planning process ensures its success: Institutes offer seminars and relevant materials on topics teachers have identified and feel are needed for their own preparation as well as what they know will motivate and engage their students. Teachers enthusiastically take part in rigorous seminars they have requested, and as part of the program, practice using the materials they have obtained and developed. This helps ensure that the experience not only increases their preparation in the subjects they are assigned to teach, but also their participation in an Institute seminar gives them immediate hands-on active learning materials that can be used in the classroom. In short, by allowing teachers to determine the seminar subjects and providing them the resources to develop relevant curricula for their classroom and their students, the Institutes empower teachers. Teachers know their students best and they know what should be done to improve schools and increase student learning. The Teacher Professional Development Institutes promote this philosophy.

From 1999–2002, the Yale-New Haven Teachers Institute launched a National

Demonstration Project to create comparable Institutes at four diverse sites with large concentrations of disadvantaged students. These demonstration projects are located in Pittsburgh, PA, Houston, TX, Albuquerque, NM, and Santa Ana, CA.

Follow-up evaluations have earned very positive results from the teacher participants in the Yale-New Haven Institute, as well as the four demonstration sites. The data strongly support the conclusion that virtually all teachers felt substantially strengthened in their mastery of content knowledge and they also developed increased expectations for what their students could achieve. In addition, because of their involvement in the course selection and curriculum development process, teacher participants have found these seminars to be especially relevant and useful in their classroom practices. Ninety-five percent of all participating teachers reported that the seminars were useful. These Institutes have also served to foster teacher leadership, to develop supportive teacher networks, to heighten university faculty commitments to improving K–12 public education, and to foster more positive partnerships between school districts and institutions of higher education.

By some studies, teacher quality is the single most important school-related factor in determining student achievement. In support of this, the No Child Left Behind Act requires a ''highly qualified'' teacher to be in every classroom by the end of 2005–2006. Effective teacher professional development programs that focus on subject and pedagogy knowledge are a proven method for enhancing the success of a teacher in the classroom and in helping them meet the highly qualified criteria.

Though a K–12 teacher shortage is forecast in the near-term and many new teachers will be entering our schools, those teachers who are presently on the job will do the majority of teaching in the classrooms in the very near future. For this reason, it is imperative to invest in methods to strengthen our present teaching workforce. Like many professions, the quality of our teachers could diminish if their professional development is neglected. Research has shown that positive educational achievements occur when coursework in a teachers' specific content area is combined with pedagogy techniques. This is what the Teacher Professional Development Institutes Act strives to accomplish.

The Yale-New Haven Institutes have already proven to be a successful model for teacher professional development as demonstrated by the high caliper curriculum unit plans that teacher participants have developed and placed on the web and by the evaluations that support the conclusion that virtually all the teacher participants felt substantially strengthened in their mastery of content knowledge and their teaching skills. My proposal would open this opportunity to many more urban teachers throughout the nation.

I urge my colleagues to act favorably on this measure. 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. 2538

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

SECTION 1. TEACHER PROFESSIONAL DEVELOPMENT INSTITUTES.

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

''PART C—TEACHER PROFESSIONAL DEVELOPMENT INSTITUTES

''SEC. 241. SHORT TITLE.

''This part may be cited as the 'Teacher Professional Development Institutes Act'.

''SEC. 242. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress makes the following findings:

''(1) The ongoing professional development of teachers in the subjects the teachers teach is essential for improved student learning.

''(2) Attaining the goal of the No Child Left Behind Act of 2001, of having a teacher who is highly qualified in every core subject classroom, will require innovative and effective approaches to improving the quality of teaching.

''(3) The Teachers Institute Model is an innovative approach that encourages a collaboration between urban school teachers and university faculty. The Teachers Institute Model focuses on the continuing academic preparation of school teachers and the application of what the teachers study to their classrooms and potentially to the classrooms of other teachers.

''(4) The Teachers Institute Model has also been successfully demonstrated over a 3-year period in a National Demonstration Project (hereafter in this part referred to as the 'National Demonstration Project') in several cities.

''(b) PURPOSE.—The purpose of this part is to provide Federal assistance to support the establishment and operation of Teachers Institutes for local educational agencies that serve significant low-income populations in States throughout the Nation—

''(1) to improve student learning; and

''(2) to enhance the quality of teaching by strengthening the subject matter mastery of current teachers through continuing teacher preparation.

''SEC. 243. DEFINITIONS.

''In this part:

''(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

''(2) SIGNIFICANT LOW-INCOME POPULATION.—The term 'significant low-income population' means a student population of which not less than 25 percent are from families with incomes below the poverty line.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(4) TEACHERS INSTITUTE.—The term 'Teachers Institute' means a partnership or joint venture between or among 1 or more institutions of higher education, and 1 or more local educational agencies serving a significant low-income population, which partnership or joint venture—

''(A) is entered into for the purpose of improving the quality of teaching and learning through collaborative seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants; and

''(B) works in collaboration to determine the direction and content of the collaborative seminars.

''SEC. 244. GRANT AUTHORITY.

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to award grants to Teachers Institutes to encourage the establishment and operation of Teachers Institutes; and

''(2) to provide technical assistance, either directly or through existing Teachers Institutes, to assist local educational agencies and institutions of higher education in preparing to establish and in operating Teachers Institutes.

''(b) SELECTION CRITERIA.—In selecting a Teachers Institute for a grant under this part, the Secretary shall consider—

''(1) the extent to which the proposed Teachers Institute will serve a community with a significant low-income population;

''(2) the extent to which the proposed Teachers Institute will follow the Understandings and Necessary Procedures that have been developed following the National Demonstration Project;

''(3) the extent to which the local educational agency participating in the proposed Teachers Institute has a high percentage of teachers who are unprepared or under prepared to teach the core academic subjects the teachers are assigned to teach; and

''(4) the extent to which the proposed Teachers Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Institute.

''(c) CONSULTATION.—

''(1) IN GENERAL.—In evaluating applications under subsection (b), the Secretary may request the advice and assistance of existing Teachers Institutes.

''(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for new Teachers Institutes that propose serving the same State, the Secretary shall consult with the State educational agency regarding the applications.

''(d) FISCAL AGENT.—For the purpose of this part, an institution of higher education participating in a Teachers Institute shall serve as the fiscal agent for the receipt of grant funds under this part.

''(e) LIMITATIONS.—A grant under this part—

''(1) shall be awarded for a period not to exceed 5 years; and

''(2) shall not exceed 50 percent of the total costs of the eligible activities, as determined by the Secretary.

''SEC. 245. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Grant funds awarded under this part may be used—

''(1) for the planning and development of applications for the establishment of Teachers Institutes;

''(2) to provide assistance to the Teachers Institutes established during the National Demonstration Project to enable the Teachers Institutes—

''(A) to develop further the Teachers Institutes; or

''(B) to support the planning and development of applications for new Teachers Institutes;

''(3) for the salary and necessary expenses of a full-time director to plan and manage the Teachers Institute and to act as liaison

between the local educational agency and the institution of higher education participating in the Teachers Institute;

''(4) to provide suitable office space, staff, equipment, and supplies, and to pay other operating expenses, for the Teachers Institute;

''(5) to provide a stipend for teachers participating in collaborative seminars in the sciences and humanities, and to provide remuneration for those members of the faculty of the institution of higher education participating in the Teachers Institute who lead the seminars; and

''(6) to provide for the dissemination through print and electronic means of curriculum units prepared in the seminars conducted by the Teachers Institute.

''(b) TECHNICAL ASSISTANCE.—The Secretary may use not more than 50 percent of the funds appropriated to carry out this part to provide technical assistance to facilitate the establishment and operation of Teachers Institutes. For the purpose of this subsection, the Secretary may contract with existing Teachers Institutes to provide all or a part of the technical assistance under this subsection.

''SEC. 246. APPLICATION, APPROVAL, AND AGREEMENT.

''(a) IN GENERAL.—To receive a grant under this part, a Teachers Institute shall submit an application to the Secretary that—

''(1) meets the requirement of this part and any regulations under this part;

''(2) includes a description of how the Teachers Institute intends to use funds provided under the grant;

''(3) includes such information as the Secretary may require to apply the criteria described in section 244(b);

''(4) includes measurable objectives for the use of the funds provided under the grant; and

''(5) contains such other information and assurances as the Secretary may require.

''(b) APPROVAL.—The Secretary shall—

''(1) promptly evaluate an application received for a grant under this part; and

''(2) notify the applicant within 90 days of the receipt of a completed application of the Secretary's approval or disapproval of the application.

''(c) AGREEMENT.—Upon approval of an application, the Secretary and the Teachers Institute shall enter into a comprehensive agreement covering the entire period of the grant.

''SEC. 247. REPORTS AND EVALUATIONS.

''(a) REPORT.—Each Teachers Institute receiving a grant under this part shall report annually on the progress of the Teachers Institute in achieving the purpose of this part and the purposes of the grant.

''(b) EVALUATION AND DISSEMINATION.—

''(1) EVALUATION.—The Secretary shall evaluate the activities funded under this part and submit an annual report regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

''(2) DISSEMINATION.—The Secretary shall broadly disseminate successful practices developed by Teachers Institutes.

''(c) REVOCATION.—If the Secretary determines that a Teachers Institute is not making substantial progress in achieving the purpose of this part and the purposes of the grant by the end of the second year of the grant under this part, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this part are used in the most effective manner.

''SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part—

''(1) $4,000,000 for fiscal year 2005;

''(2) $5,000,000 for fiscal year 2006;

''(3) $6,000,000 for fiscal year 2007;

''(4) $7,000,000 for fiscal year 2008; and

''(5) $8,000,000 for fiscal year 2009.''.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. SMITH):

S. 2539. A bill to amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce legislation to update and improve the Tribally Controlled Colleges or University Assistance Act and amend the Indian sections of the Higher Education Act.

Indian tribal colleges were first created about 30 years ago in response to the higher education needs of Native populations living in remote and isolated areas of the country where access to higher education is extremely difficult.

There are 33 tribally- or Federally-chartered Indian colleges in the Nation and they do a superb job despite the many obstacles they face.

In recent years the cost of higher education has far exceeded the rate of inflation. Tribal colleges face other problems as well: a growing population and growing demand for services; increased demand for additional facilities; geographical isolation; and difficulty attracting quality professors to teach.

Tribal colleges not only provide a quality higher education but also enhance the cultural knowledge, knowledge depositories, college preparatory work, and other important educational needs of Indian communities.

Tribal colleges also enhance the economies of tribes. The national unemployment rate in the U.S. today is about 5.6 percent, while the rate for Native Americans is many times that and in some parts of Indian country hovers above 50 percent.

Tribal colleges serve as centers for business incubation and small business development in order to encourage private business development and job creation.

Tribal colleges are also being called on to help Indian communities in the often-difficult transition from welfare to work. These institutions also provide education and training to people ready to join the workforce.

To continue the vital work of these colleges, the bill I am introducing will provide additional resources and means to develop facilities, increase quality faculty and improve the overall education of Indian people within their reservations.

I urge my colleagues to join me in supporting this important bill.

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. 2539

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

TITLE I—TRIBAL COLLEGES AND UNIVERSITIES

SEC. 101. TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ACT OF 1978.

(a) FORMULA.—Section 108(a)(2) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1808) is amended by striking ''$6,000'' and inserting ''$8,000''.

(b) TITLE I REAUTHORIZATION.—Section 110(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) in paragraphs (1), (2), (3), and (4), by striking ''1999'' and inserting ''2004'';

(2) in paragraphs (1), (2), and (3), by striking ''4 succeeding'' and inserting ''5 succeeding'';

(3) in paragraph (2), by striking ''$40,000,000'' and inserting ''$55,000,000'';

(4) in paragraph (3), by striking ''$10,000,000'' and inserting ''$20,000,000''; and

(5) in paragraph (4), by striking ''succeeding 4'' and inserting ''5 succeeding''.

(c) TITLE III REAUTHORIZATION.—Section 306(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended—

(1) by striking ''1999'' and inserting ''2004''; and

(2) by striking ''4 succeeding'' and inserting ''5 succeeding''.

(d) TITLE IV REAUTHORIZATION.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended—

(1) by striking ''$2,000,000 for fiscal year 1999'' and inserting ''$5,000,000 for fiscal year 2004''; and

(2) by striking ''4 succeeding'' and inserting ''5 succeeding''.

(e) CLARIFICATION OF THE DEFINITION OF NATIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking ''in the field of Indian education'' and inserting ''in the field of Tribal Colleges and Universities and Indian higher education''.

(f) INDIAN STUDENT COUNT.—Section 2(a) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

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

''(7) 'Indian student' means a person who is—

''(A) a member of an Indian tribe; or

''(B) a biological child of a member of an Indian tribe, living or deceased;''.

(g) CONTINUING EDUCATION.—Section 2(b) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(b)) is amended by striking paragraph (5) and inserting the following:

''(5) DETERMINATION OF CREDITS.—Eligible credits earned in a continuing education program—

''(A) shall be determined as 1 credit for every 10 contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

''(B) shall be limited to 10 percent of the Indian student count of a tribally controlled college or university.''.

(h) ACCREDITATION REQUIREMENT.—Section 103 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1804) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (3), the following:

''(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

''(B) is, according to such an agency or association, making reasonable progress toward accreditation.''.

(i) TECHNICAL ASSISTANCE CONTRACT AWARDS.—Section 105 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1805) is amended in the second sentence by striking ''In the awarding of contracts for technical assistance, preference shall be given'' and inserting ''The Secretary shall direct that contracts for technical assistance be awarded''.

SEC. 102. TITLE III GRANTS FOR AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

(a) DEFINITION OF TRIBAL COLLEGE OR UNIVERSITY.—Section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)) is amended by striking paragraph (3) and inserting the following:

''(3) TRIBAL COLLEGE OR UNIVERSITY.—

''(A) IN GENERAL.—The term 'Tribal College or University' means an institution that meets the definition of tribally controlled college or university in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

''(B) INCLUSIONS.—The term 'Tribal College or University' includes Bay Mills Community College; Blackfeet Community College; Cankdeska Cikana Community College; Chief Dull Knife College; College of Menominee Nation; Crownpoint Institute of Technology; Dine College; D–Q University; Fond Du Lac Tribal and Community College; Fort Belknap College; Fort Berthold Community College; Fort Peck Community College; Haskell Indian Nations University; Institute of American Indian and Alaska Native Culture and Arts Development; Lac Courte Oreilles Ojibwa Community College; Leech Lake Tribal College; Little Big Horn College; Little Priest Tribal College; Nebraska Indian Community College; Northwest Indian College; Oglala Lakota College; Saginaw Chippewa Tribal College; Salish Kootenai College; Si Tanka University-Eagle Butte Campus; Sinte Gleska University; Sisseton Wahpeton Community College; Sitting Bull College; Southwestern Indian Polytechnic Institute; Stone Child College; Tohono O'odham Community College; Turtle Mountain Community College; United Tribes Technical College; and White Earth Tribal and Community College.''.

(b) DISTANCE LEARNING.—Section 316(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059c(c)(2)) is amended—

(1) in subparagraph (B), by inserting before the semicolon at the end the following: ''and the acquisition of real property adjacent to the campus of the institution on which to construct such facilities'';

(2) in subparagraph (K), by striking ''and'' at the end;

(3) by redesignating subparagraph (L) as subparagraph (M); and

(4) by inserting after subparagraph (K) the following:

''(L) developing or improving facilities for Internet use or other distance learning academic instruction capabilities; and''.

(c) APPLICATION, PLAN, AND ALLOCATION.—Section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) is amended by striking subsection (d) and inserting the following:

''(d) APPLICATION, PLAN, AND ALLOCATION.—

''(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

''(2) APPLICATION.—

''(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may reasonably require.

''(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants.

''(3) ALLOCATIONS TO INSTITUTIONS.—

''(A) CONSTRUCTION GRANTS.—

''(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary shall reserve 30 percent for the purpose of awarding 1-year grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

''(ii) PREFERENCE.—In providing grants under clause (i), the Secretary shall give preference to eligible institutions that have not yet received an award under this section.

''(B) ALLOTMENT OF REMAINING FUNDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

''(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities; and

''(II) the remaining 40 percent shall be distributed in equal shares to eligible Tribal Colleges and Universities.

''(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

''(4) SPECIAL RULES.—

''(A) CONCURRENT FUNDING.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

''(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.''.

SEC. 103. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

(a) PERKINS LOANS.—

(1) AMENDMENT.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (H), by striking ''or'' at the end;

(ii) in subparagraph (I), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(J) as a full-time teacher at a Tribal College or University (as defined in section 316(b)).''; and

(B) in paragraph (3)(A)(i), by striking ''or (I)'' and inserting ''(I), or (J)''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective for service performed during academic year 1998–1999 and succeeding academic years, notwithstanding any contrary provision of the promissory note under which a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) was made.

(b) FFEL AND DIRECT LOANS.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

''SEC. 493. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

''(a) DEFINITION OF YEAR.—In this section, the term 'year', as applied to employment as a teacher, means an academic year (as defined by the Secretary).

''(b) PROGRAM.—The Secretary shall carry out a program, through the holder of a loan, of assuming or canceling the obligation to repay a qualified loan amount, in accordance with subsection (c), for any new borrower on or after the date of enactment of this section, who—

''(1) has been employed as a full-time teacher at a Tribal College or University (as defined in section 316(b)); and

''(2) is not in default on a loan for which the borrower seeks repayment or cancellation.

''(c) QUALIFIED LOAN AMOUNTS.—

''(1) PERCENTAGES.—Subject to paragraph (2), the Secretary shall assume or cancel the obligation to repay under this section—

''(A) 15 percent of the amount of all loans made, insured, or guaranteed after the date of enactment of this section to a student under part B or D, for the first or second year of employment described in subsection (b)(1);

''(B) 20 percent of such total amount, for the third or fourth year of such employment; and

''(C) 30 percent of such total amount, for the fifth year of such employment.

''(2) MAXIMUM.—The Secretary shall not repay or cancel under this section more than $15,000 in the aggregate of loans made, insured, or guaranteed under parts B and D for any student.

''(3) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that the loan amount was used to repay a loan made, insured, or guaranteed under part B or D for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations promulgated by the Secretary.

''(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

''(e) EFFECT OF SECTION.—Nothing in this section authorizes any refunding of any repayment of a loan.

''(f) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).''.

(c) AMOUNTS FORGIVEN NOT TREATED AS GROSS INCOME.—Rules similar to the rules under section 108(f) of the Internal Revenue Code of 1986 shall apply to the amount of any loan that is assumed or canceled under this section.

TITLE II—NAVAJO HIGHER EDUCATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Navajo Nation Higher Education Act of 2004''.

SEC. 202. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) the Treaty of 1868 between the United States of America and the Navajo Tribe of Indians (15 Stat. 667) provides for the education of the citizens of the Navajo Nation;

(2) in 1998, the Navajo Nation created and chartered the Navajo Community College by Resolution CN–95–68 as a wholly owned educational entity of the Navajo Nation;

(3) in 1971, Congress enacted the Navajo Community College Act (25 U.S.C. 640a et seq.);

(4) in 1997, the Navajo Nation officially changed the name of the Navajo Community College to Dinè College by Resolution CAP–35–97;

(5) the purpose of Dinè College is to provide educational opportunities to the Navajo people and others in areas important to the economic and social development of the Navajo Nation;

(6) the mission of Dinè College is to apply the principles of Sa'ah Naaghì Bik'eh Hòzhòòn (Dinè Philosophy) to advance student learning through training of the mind and heart—

(A) through Nitshkees (Thinking), Nahat (Planning), Iin (Living), and Sihasin (Assurance);

(B) in study of the Dinè language, history, philosophy, and culture;

(C) in preparation for further studies and employment in a multicultural and technological world; and

(D) in fostering social responsibility, community service, and scholarly research that contribute to the social, economic, and cultural well-being of the Navajo Nation;

(7) the United States has a trust and treaty responsibility to the Navajo Nation to provide for the educational opportunities for Navajo people;

(8) significant portions of the infrastructure of the College are dilapidated and pose a serious health and safety risk to students, employees and the public; and

(9) the purposes and intent of this Act—

(A) are consistent with—

(i) Executive Order 13270 (3 C.F.R. 242 (2002); relating to tribal colleges and universities)); and

(ii) Executive Order 13336 (69 Fed. Reg. 25295; relating to American Indian and Alaska Native education), issued on April 30, 2004; and

(B) fulfill the responsibility of the United States to serve the education needs of the Navajo people.

SEC. 203. DEFINITIONS.

In this title:

(1) COLLEGE.—The term ''College'' means Dinè College.

(2) COSTS OF OPERATION AND MAINTENANCE.—The term ''operation and maintenance'' means all costs and expenses associated with the customary daily operation of the College and necessary maintenance costs.

(3) INFRASTRUCTURE.—

(A) IN GENERAL.—The term ''infrastructure'' means College buildings, water and sewer facilities, roads, foundation, information technology, and telecommunications.

(B) INCLUSIONS.—The term ''infrastructure'' includes—

(i) classrooms; and

(ii) external structures, such as walkways.

(4) NATION.—The term ''Nation'' means the Navajo Nation.

(5) RENOVATIONS AND REPAIRS.—The term ''renovations and repairs'' means modernization and improvements to the infrastructure.

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

SEC. 204. REAUTHORIZATION OF DINÈ COLLEGE.

Congress authorizes the College to receive all Federal funding and resources under this Act and other laws for the operation, improvement, and growth of the College, including—

(1) provision of programs of higher education for citizens of the Nation and others;

(2) provision of vocational and technical education for citizens of the Nation and others;

(3) preservation and protection of the Navajo language, philosophy, and culture for citizens of the Nation and others;

(4) provision of employment and training opportunities to Navajo communities and people;

(5) provision of economic development and community outreach for Navajo communities and people; and

(6) provision of a safe learning, working, and living environment for students, employees, and the public.

SEC. 205. FACILITIES AND CAPITAL PROJECTS.

The College may expend money received under section 209(c) to undertake all renovations and repairs to the infrastructure of the College, as identified by a strategic plan approved by the College and submitted to the Secretary.

SEC. 206. STATUS OF FUNDS.

Funds provided to the College under this title may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law that requires that non-Federal or private funds of the College be used in a project for a specific purpose.

SEC. 207. SURVEY, STUDY, AND REPORT.

(a) REPORT.—The Secretary shall—

(1) conduct a detailed study of all capital projects and facility needs of the College; and

(2) submit to Congress a report that —

(A) describes the results of the study not later than October 31, 2009; and

(B) includes detailed recommendations of the Secretary and any recommendations or views submitted by the College and the Nation.

(b) ADMINISTRATIVE EXPENSES.—Funds to carry out this section may be drawn from general administrative appropriations to the Secretary.

SEC. 208. CONTINUING ELIGIBILITY FOR OTHER FEDERAL FUNDS.

Except as explicitly provided for in other Federal law, nothing in this Act precludes the eligibility of the College to received Federal funding and resources under any program authorized under—

(1) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); and

(2) the Equity in Educational Land Grant Status Act (Title V, Part C, of Public Law 103–382; 7 U.S.C. 301 note); or

(3) any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such amounts as are necessary to pay the costs of operation and maintenance.

(b) BUDGET PLACEMENT.—The Secretary shall fund the costs of operation and maintenance of the College separately from tribal colleges and universities recognized and funded by the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(c) FACILITIES AND CAPITAL PROJECTS.—

(1) IN GENERAL.—In addition to amounts made available under subsection (a), there are authorized to be appropriated to carry out section 205 $15,000,000 for each of fiscal years 2005 through 2009.

(2) AGENCIES.—Amounts made available under paragraph (1) may be funded through any 1 or more of—

(A) the Department of the Interior;

(B) the Department of Education;

(C) the Department of Heath and Human Services;

(D) the Department of Housing and Urban Development;

(E) the Department of Commerce;

(F) the Environmental Protection Agency;

(G) the Department of Veterans Affairs;

(H) the Department of Agriculture;

(I) the Department of Homeland Security;

(J) the Department of Defense;

(K) the Department of Labor; and

(L) the Department of Transportation.

SEC. 210. REPEAL OF NAVAJO COMMUNITY COLLEGE ACT.

This Act supersedes the Navajo Community College Act (25 U.S.C. 640a et seq.).

By Ms. CANTWELL:

S. 2540. A bill to protect educational FM radio stations providing public service broadcasting from commercial encroachment; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I stand today to offer a bill to protect educational radio stations.

Broadcaster Linda Ellerbee has compared radio to a national campfire: a place where a variety of voices bring us stories, news, opinion, culture and entertainment. But it seems these days that those representing the biggest business interests have the best seats at that campfire.

Current regulations allow commercial broadcasters to move into the spaces of some, lower-powered educational stations.

Last year the FCC ordered an educational station at a high school in Pennsylvania to be closed because a commercial broadcaster wanted to move into that space. That high school station had been serving the students and the community in Havertown, PA for fifty years. But no more. The high school station's voice was silenced. And that same FCC order also closed a radio station operated by a school district in Princeton, NJ. Both stations lost their licenses so a commercial broadcaster could get a frequency closer to the very profitable radio market in Philadelphia.

In my State of Washington, a high school station that has served a Seattle community for 35 years is now threatened with closure. That's because a commercial broadcaster located in another State wants to relocate to a larger city to increase its profits at the expense of the students of Mercer Island High School and the community the station serves. And in this case, the school's station also serves an important tool in the lives of those working in the local music community. The station focuses on introducing new and local bands to the airways. These artists are frequently later picked up for airplay by other radio stations. Few stations across the U.S. perform this role in the music industry. No other station serves this role so well in the Seattle music community.

If the FCC allows this move, it could be worth millions to the commercial broadcasters. But what is the cost to the local community when this voice is silenced? What is the educational cost to the students at this high school? What benefits and experiences will they be losing in the future?

This is a classic example of commercial interests trumping the public service interest in preserving local educational broadcasters. These small public service stations usually don't have

anyone to stand up for them. Since the 1970's, we have seen more than a hundred of these stations disappear, to be replaced by larger, often national broadcasters, with little if any connection to the local community.

The examples I've given you here today are not the only ones. Radio stations run by universities in Pittsburgh and North Carolina are also vulnerable to similar attempts.

This is why I am introducing the Educational Radio Protection Act.

My legislation is very simple: educational stations that are able to meet certain qualifying standards, similar to the requirements for primary, Class A, stations on FM radio, will be given the same protected status that these primary stations receive.

This is an important measure to protect community broadcasters. And the bottom line is that commercial broadcasters won't be able to bump these educational stations off the radio dial.

I thank you for the time today to discuss an issue that really is a cornerstone of democracy. For only in a democracy are the voices of the many heard to bring about a functioning government. I urge my colleagues to support this bill, and yield the floor.

By Mr. MCCAIN (for himself, Mr. BROWNBACK, Mrs. HUTCHISON, and Mr. ALLEN):

S. 2541. A bill to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senators BROWNBACK, HUTCHISON, and ALLEN in introducing legislation to re-authorize the National Aeronautics and Space Administration. This legislation marks the beginning of a new age of exploration, and the extension of humanity's quest for knowledge to a manned mission to Mars.

NASA is currently responsible for a number of programs that create greater knowledge about the Earth and the universe around us. As we speak today, the two robots, *Spirit* and *Opportunity*, are exploring craters on Mars in search of ancient lake beds. The Hubble telescope continues to show us new discoveries about the universe. NASA satellites also help us to develop a better scientific understanding of the Earth's atmosphere and its response to natural and human-induced changes. NASA is in the process of developing airplanes with morphing wings that will change shape during flight.

Despite all of these wondrous achievements, NASA is an agency in search of a new mission. For many Americans, the Apollo landings remain a moment of inspiration, but also a fading memory of the past. Many space enthusiasts have complained that the manned space program has been stuck in low Earth orbit and harnessed to a costly space station and aging Space Shuttle infrastructure. Just last year, we again witnessed the inherent danger in manned spaceflight, and some questioned the need for such a risky and expensive program.

To his credit, President Bush announced on the day of the *Columbia* tragedy that ''our journey into space will go on.'' In January, the President offered a bold new space vision and made a firm commitment to return the Space Shuttle to flight, finish construction of the International Space Station, and return astronauts to the Moon in preparation for a manned mission to Mars. This bill would authorize these activities consistent with the President's overall requested budget amounts, and set the nation firmly on a course for manned exploration beyond low Earth orbit.

However, we also have learned from the mistakes of the past. Unfortunately, NASA's recent history of managing projects, such as the X–33 and X–34, has been full of disappointment and failure. Many Members have seen the wisdom of President Reagan's adage to ''trust, but verify,'' when analyzing NASA's budget numbers. With these lessons in mind, the bill contains a number of provisions to ensure that NASA stays on track.

The bill would require the submission of a baseline technical requirements document and life cycle cost estimate, so that Congress can find out exactly what is required to implement the President's vision and begin to determine its cost. The bill also would require an industrial assessment of the private sector's ability to support manned missions to the Moon and Mars, and a commercialization plan to identify opportunities for the private sector to participate in future missions. Most importantly, the bill would require quarterly life cycle reports on major systems of the new initiative, and include cost-control measures when the cost overruns of these systems exceed 15 percent and 25 percent over the total life cycle cost of the system.

The bill also would codify many of the recommendations of the Columbia Accident Investigation Board (CAIB). Admiral Gehman and the other board members did an admirable job in thoroughly investigating the causes of this tragic accident. The bill would establish a lessons-learned and best practices program to ensure that NASA does not repeat the mistakes of the past. In addition, the Office of Safety and Mission Assurance is given independent funding and direct line authority over the entire Space Shuttle Safety organization. An Independent Technical Engineering Authority is established within NASA with its own budgetary line to maintain technical standards, be the sole waiver-granting authority for technical standards, and perform other tasks. The bill also would ensure that the Independent Technical Engineering Authority would recertify the Space Shuttle orbiters for operation prior to any operations beyond 2010. The bill would include an assessment of NASA's culture and organization, and an action plan to fix the cultural and organizational problems that the CAIB identified as a major cause of the accident. The men and women of the *Columbia* gave their lives to further America's knowledge of the Earth and the stars, and we should honor their memory by ensuring that such an accident never occurs again.

In addition, the bill would address the problems concerning the Hubble Space Telescope. As my colleagues know, NASA has indicated that it cannot use the Space Shuttle for another human mission to service this national treasure. Both NASA and the National Academy of Sciences are reviewing options for using robots and other means to save the telescope. Sixty days after the National Academy releases its report, the Administrator would be directed to report to Congress on the future servicing options for Hubble and how much it will cost.

I realize that concerns have been raised regarding some of the cuts that NASA is proposing to pay for the President's exploration vision. In order to pay for this new program, we must realize that there is limited funding and that NASA funding has to be re-allocated. However, this bill should not be construed as supporting each and every proposed reduction. Instead, the bill simply would authorize the funding levels buy the major budget accounts.

Curiosity and a drive to explore have always been quintessential American traits. This has been most evident in the space program, which continues to show great advances in human knowledge. However, we are fully aware of the inherent risks and costs of space exploration, and the need to mitigate them wherever possible. Based on this knowledge, let us now embark upon this great journey into the stars to find whatever may await us.

I urge my colleagues to support this legislation, and look forward to working with them to ensure passage of this bill this year.

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

S. 2542. A bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the No Child Left Behind Fairness Act. Our goal is to achieve accurate and fair determinations of accountability in current law. The bill does not change the accountability provisions of the law, but it does require the Department of Education to play by its own rules in considering the progress of each school.

The accountability provisions in the No Child Left Behind Act are critical to accomplishing the goal of closing the achievement gap. Before its enactment, many communities ignored the gaps between some children and others in school, even though some groups of students were consistently falling behind. Communities are now beginning to provide the help those schools need to meet higher standards for all students, such as better teacher training, better curriculums, and better support and attention.

It makes sense to identify schools as needing improvement. There's nothing wrong with shining a light on areas that need improvement—even in the best schools. That doesn't mean they are failures.

But for the accountability provisions in the law to be useful, they must be accurate. We need accurate determinations of whether schools are making progress.

A full two years after passage of the No Child Left Behind Act, the Department of Education finally issued the regulations and guidance that schools need to accurately calculate accountability under the law. Those rules were a step in the right direction. They specifically addressed the achievement of children with disabilities and limited English proficient children.

The Department's rules were effective immediately, but many schools had already made their evaluations for the year as best they could. They shouldn't have had to make these assessments and calculations without adequate guidance. They certainly shouldn't be penalized for the Department's delay in issuing this guidance.

So far, 28,000 schools have been identified by States as failing to make adequate yearly progress. Many of those schools were identified in the 2002–2003 school year, before the new rule were released. A number of schools and districts identified as failing to make adequate yearly progress might have succeeded if the new rules had been in effect from the start. The Department's delay in issuing adequate rules and guidance has created unnecessary confusion, caused a potential mislabeling of schools, and misdirected resources from the schools and students who actually need them.

Some States have asked the Department of Education for permission to review their scores from last year under the new rules, and submit a more accurate calculation of accountability. Many of us in Congress have urged the Secretary of Education to apply the new regulations retroactively, so that States, school districts, and schools can review last year's data

On accountability and correct it if necessary. The Secretary of Education has refused, stating that he lacks the authority to do so.

This bill provides that authority. It enables the new regulations to be applied retroactively, so that schools will be judged on the same standards for the past year as they will be in the future, not by different criteria for different years.

Schools across the country are struggling to comply with the requirements of the No Child Left Behind Act. If we want schools to be held accountable, we need to make the process fair. I urge my colleagues to pass this legislation s soon as possible. Schools are waiting for our response. They don't deserve an unfair burden in complying with the act and improving their schools.

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

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

S. 2542

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 ''No Child Left Behind Fairness Act of 2004''.

SEC. 2. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR SCHOOLS FOR THE 2002–2003 SCHOOL YEAR.

(a) IN GENERAL.—The Secretary shall require each local educational agency to provide each school served by the agency with an opportunity to request a review of a determination by the agency that the school did not make adequate yearly progress for the 2002–2003 school year.

(b) FINAL DETERMINATION.—Not later than 30 days after receipt of a request by a school for a review under this section, a local educational agency shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002–2003 school year.

(c) EVIDENCE.—In conducting a review under this section, a local educational agency shall—

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002–2003 school year; and

(2) consider that evidence before making a final determination under subsection (b).

(d) STANDARD OF REVIEW.—In conducting a review under this section, a local educational agency shall revise, consistent with the applicable State plan under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local educational agency's original determination that a school did not make adequate yearly progress for the 2002–2003 school year if the agency finds that the school made such progress taking into consideration—

(1) the amendments made to part 200 of title 34 of the Code of Federal Regulations on December 9, 2003 (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities); or

(2) any regulation or guidance that, subsequent to the date of such original determination, was issued by the Secretary relating to—

(A) the assessment of limited English proficient children;

(B) the inclusion of limited English proficient children as part of the subgroup described in section 1111(b)(2)(C)(v)(II)(dd) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)(dd)) after such children have obtained English proficiency; or

(C) any requirement under section 1111(b)(2)(I)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(I)(ii)).

(e) EFFECT OF REVISED DETERMINATION.—

(1) IN GENERAL.—If pursuant to a review under this section a local educational agency determines that a school made adequate yearly progress for the 2002–2003 school year, upon such determination—

(A) any action by the Secretary, the State educational agency, or the local educational agency that was taken because of a prior determination that the school did not make such progress shall be terminated; and

(B) any obligations or actions required of the local educational agency or the school because of the prior determination shall cease to be required.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), a determination under this section shall not affect any obligation or action required of a local educational agency or school under the following:

(A) Section 1116(b)(13) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(13)) (requiring a local educational agency to continue to permit a child who transferred to another school under such section to remain in that school until completion of the highest grade in the school).

(B) Section 1116(e)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)(8)) (requiring a local educational agency to continue to provide supplemental educational services under such section until the end of the school year).

(3) SUBSEQUENT DETERMINATIONS.—In determining whether a school is subject to school improvement, corrective action, or restructuring as a result of not making adequate yearly progress, the Secretary, a State educational agency, or a local educational agency may not take into account a determination that the school did not make adequate yearly progress for the 2002–2003 school year if such determination was revised under this section and the school received a final determination of having made adequate yearly progress for the 2002–2003 school year.

(f) NOTIFICATION.—The Secretary—

(1) shall require each State educational agency to notify each school served by the agency of the school's ability to request a review under this section; and

(2) not later than 30 days after the date of the enactment of this section, shall notify the public by means of the Department of Education's website of the review process established under this section.

SEC. 3. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR LOCAL EDUCATIONAL AGENCIES FOR THE 2002–2003 SCHOOL YEAR.

(a) IN GENERAL.—The Secretary shall require each State educational agency to provide each local educational agency in the State with an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002–2003 school year.

(b) APPLICATION OF CERTAIN PROVISIONS.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 2 shall apply to review by a State educational agency of a determination described in subsection (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 2(a).

SEC. 4. DEFINITIONS.

In this Act:

(1) The term ''adequate yearly progress'' has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)).

(2) The term ''local educational agency'' means a local educational agency (as that

term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(3) The term ''Secretary'' means the Secretary of Education.

(4) The term ''school'' means an elementary school or a secondary school (as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) served under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(5) The term ''State educational agency'' means a State educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

By Mr. THOMAS (for himself and Mr. BURNS):

S. 2543. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS: Mr. President, I rise today to introduce the ''National Heritage Partnership Act.'' The first Heritage area was created on August 24, 1984—the Illinois and Michigan National Heritage Corridor. Little or no growth occurred in this program for the first 10 years. However, in the last couple of years the Congress has added 23 more Heritage areas!

The Park Service provides technical assistance and funding but Heritage areas are not National Parks. About 30 bills have been introduced this Congress to study or designate new areas. There are no Federal guidelines requiring what a heritage bill must contain, the program has very little requirements and it is out of control.

As a result, I have conducted two oversight hearings in the National Parks Subcommittee. I also had the General Accounting Office conduct a review of Heritage Areas. The following concerns were identified: individual areas are designated with specific legislation, but a National Heritage Area Program does not exist in the National Park Service; there are no official standards or criteria; existing heritage areas range in scope and size from ''Rivers of Steel'' in Pennsylvania to the entire State of Tennessee; the potential exists for unlimited designations which are impacting funding for other Park Service programs; and oversight and accountability of funding is lacking.

Today, I am introducing legislation with the Chairman of the Interior Appropriations Subcommittee which will establish National Heritage Area guidelines and criteria. The bill considers the recommendations from the GAO report about Heritage Areas and raises the standard for designation and requires specific criteria for national significance before an area can be designated. In addition, a cap has been placed on annual funding for the Heritage Area Program to avoid impacting other National Park Service programs.

This program is out of control. We are continuing to put unnecessary fiscal and resource demands on the Park Service. We have no established criteria to ensure the recognition of truly nationally significant areas. Consequently, we have compromised the integrity of all existing and future National Heritage Areas. I am pleased Senator BURNS has joined me in this effort and I look forward to moving this bill through the Senate in the near future.

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. 2543

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Heritage Partnership Act''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means an area designated by Congress that is nationally significant to the heritage of the United States and meets the criteria established under section 4(a).

(4) NATIONAL SIGNIFICANCE.—The term ''national significance'' means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROGRAM.—The term ''program'' means the National Heritage Areas program established under section 3(a).

(6) PROPOSED NATIONAL HERITAGE AREA.—The term ''proposed National Heritage Area'' means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

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

(8) SUITABILITY-FEASIBILITY STUDY.—The term ''suitability-feasibility study'' means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.

(a) IN GENERAL.—Subject to the availability of funds, the Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) DUTIES.—Under the program, the Secretary shall—

(1)(A) conduct suitability-feasibility studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on suitability-feasibility studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

SEC. 4. SUITABILITY-FEASIBILITY STUDIES.

(a) CRITERIA.—In conducting or reviewing a suitability-feasibility study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally significant to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national significance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a

significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a suitability-feasibility study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the suitability-feasibility study before making a determination for designation.

(c) TRANSMITTAL.—On completion or receipt of a suitability-feasibility study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the suitability-feasibility study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—

(1) IN GENERAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the suitability-feasibility study submitted under subsection (c)(3) a description of the reasons for the determination.

(2) OTHER FACTORS.—A finding by the Secretary that a proposed National Heritage Area meets the criteria for designation shall not preclude the Secretary from recommending against designation of the proposed National Heritage Area based on the budgetary impact of the designation or any other factor unrelated to the criteria.

(e) DESIGNATION.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a suitability-feasibility study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

SEC. 5. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national significance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 6. LOCAL COORDINATING ENTITIES.

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) SUITABILITY-FEASIBILITY STUDIES.—There is authorized to be appropriated to conduct and review suitability-feasibility studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual suitability-feasibility study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. LEVIN):

S. 2544. A bill to provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I rise to introduce the Health Care Access for Small Businesses Act of 2004. I am pleased to be joined in this endeavor by my colleagues, Senator LINCOLN and Michigan's senior Senator LEVIN. My bill would help small businesses provide health coverage for their employees, an important first step in providing access to health care for all Americans.

Last month, thousands of Americans participated in the annual Cover the Uninsured week, a discussion about the urgent need to cover the uninsured. The sheer breadth of the groups that participated in the unprecedented effort demonstrates the urgency of this issue. Labor unions were united with business groups, doctors with nurses, and charity health care providers with for-profit hospitals and insurance companies.

And yesterday, the consumer group Families USA and the governors of Iowa, Kansas, and Maine released even more disturbing news. Using Census Bureau data, they found that approximately 81.8 million Americans—one out of three people under 65 years of age—were uninsured at some point of time for the past two years. Almost two-thirds were uninsured for six months or more; and over half were uninsured for at least nine months.

We need to stop having discussions and start finding solutions. Too many hard working Americans are going without health insurance. There is a great misconception that uninsured Americans are largely unemployed or on welfare. That is simply not the case. More than 80 percent of uninsured Americans are part of working families, and almost half work for small businesses. If we can help small businesses cover their employees, we will have made great progress in covering the uninsured.

The bill I am introducing today is aimed at making coverage more affordable for employees of small businesses through what is called a ''three-share'' program. It would not impose any new funding mandates on state or local governments nor would it create new bureaucracy. It is an innovative community-based approach that could work throughout the country.

And it's aimed at ensuring primary care services are more available. We know that the primary care model through federally qualified health centers has been a tremendous success. This would build on this success by empowering communities—health care providers, small businesses, churches, civic groups—to form their own health care programs.

The three-share model is an innovative community-based idea that has been working across the U.S. from California to Arkansas to Maryland and, of course, Michigan. The name ''three-share'' stems from the program's payment structure. Premiums are shared between the employer who pays 30 percent, the employee who pays 30 percent, and the community which covers the remaining 40 percent of the cost.

In a three share model, a non-profit or local government entity serves as the manager of the plan. They design a benefit package by negotiating directly with providers or contracting through an insurance company. Then, they recruit small businesses that have not offered insurance coverage to their employees for the past year. The average cost for coverage is about $1,800 per year, much lower than the national average for commercial insurance, which on average costs about $3,400 for a single person and $9,000 for a family, according to the 2003 Kaiser survey of

employer benefits. Of the $1,800, the employer and employee would each pay approximately $540 and the community would pay about $720.

And they have been successful. For example, in Muskegon, Michigan, the three-share program Access Health has been working with about 400 small businesses to cover some 1,500 uninsured full and part-time employees. Wayne County has operated Health Choice for a decade. Although it is undergoing some changes, it has nearly 1,300 businesses enrolled and covers everyone from cab drivers, nail salon technicians, and nursing aides. Kent County, where Grand Rapids is located, began enrolling small businesses and employees in their program in 2002 and hope to grow to cover 2,500 individuals this year.

Different three share plans have received funds for the community portion from various places. In Michigan, most of the money has come from Medicaid funds. A plan in California uses money from the tobacco settlement, while a plan in Arkansas raises funds through church events and other community initiatives.

Unfortunately, despite the nuances that distinguish three share plans from one another, they all share a common challenge: they all lack a stable and sustainable funding source for the community share. This bill will help provide a steady stream of funding and analyze what three shares do right and how communities can develop their own three share model programs.

Insuring more working families will also take the pressure off state Medicaid budgets. Adequate care for those presently uninsured will also help slash the billions that is spent on uncompensated care.

Providing health care for these families fulfills a moral commitment. No one in America who gets up in the morning and goes to work should go to sleep at night fearful that an illness or injury in the family could wipe out everything they have worked hard for. This is a great nation, and together we can ensure that no American has to go without health care again.

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

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

S. 2544

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 ''Health Care Access for Small Businesses Act of 2004''.

SEC. 2. THREE-SHARE PROGRAMS.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

''TITLE XXII—PROVIDING FOR THE UNINSURED

''SEC. 2201. THREE-SHARE PROGRAMS.

''(a) PILOT PROGRAMS.—The Secretary, acting through the Administrator, shall award grants under this section for the startup and operation of 50 eligible three-share pilot programs for a 5-year period.

''(b) GRANTS FOR THREE-SHARE PROGRAMS.—

''(1) ESTABLISHMENT.—The Administrator may award grants to eligible entities—

''(A) to establish three-share programs;

''(B) to provide for contributions to the premiums assessed for coverage under a three-share program as provided for in subsection (c)(2)(B)(iii); and

''(C) to establish risk pools.

''(2) THREE-SHARE PROGRAM PLAN.—Each entity desiring a grant under this subsection shall develop a plan for the establishment and operation of a three-share program that meets the requirements of paragraphs (2) and (3) of subsection (c).

''(3) APPLICATION.—Each entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner and containing such information as the Administrator may require, including—

''(A) the three-share program plan described in paragraph (2); and

''(B) an assurance that the eligible entity will—

''(i) determine a benefit package;

''(ii) recruit businesses and employees for the three-share program;

''(iii) build and manage a network of health providers or contract with an existing network or licensed insurance provider;

''(iv) manage all administrative needs; and

''(v) establish relationships among community, business, and provider interests.

''(4) PRIORITY.—In awarding grants under this section the Secretary shall give priority to an applicant—

''(A) that is an existing three-share program;

''(B) that is an eligible three-share program that has demonstrated community support; or

''(C) that is located in a State with insurance laws and regulations that permit three-share program expansion.

''(c) GRANT ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator, shall promulgate regulations providing for the eligibility of three-share programs for participation in the pilot program under this section.

''(2) THREE-SHARE PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—To be determined to be an eligible three-share program for purposes of participation in the pilot program under this section a three-share program shall—

''(i) be either a non-profit or local governmental entity;

''(ii) define the region in which such program will provide services;

''(iii) have the capacity to carry out administrative functions of managing health plans, including monthly billings, verification/enrollment of eligible employers and employees, maintenance of membership rosters, development of member materials (such as handbooks and identification cards), customer service, and claims processing; and

''(iv) have demonstrated community involvement.

''(B) PAYMENT.—To be eligible under paragraph (1), a three-share program shall pay the costs of services provided under subparagraph (A)(ii) by charging a monthly premium for each covered individual to be divided as follows:

''(i) Not more than 30 percent of such premium shall be paid by a qualified employee desiring coverage under the three-share program.

''(ii) Not more than 30 percent of such premium shall be paid by the qualified employer of such a qualified employee.

''(iii) At least 40 percent of such premium shall be paid from amounts provided under a grant under this section.

''(iv) Any remaining amount shall be paid by the three-share program from other public, private, or charitable sources.

''(C) PROGRAM FLEXIBILITY.—A three-share program may set an income eligibility guideline for enrollment purposes.

''(3) COVERAGE.—

''(A) IN GENERAL.—To be an eligible three-share program under this section, the three-share program shall provide at least the following benefits:

''(i) Physicians services.

''(ii) In-patient hospital services.

''(iii) Out-patient services.

''(iv) Emergency room visits.

''(v) Emergency ambulance services.

''(vi) Diagnostic lab fees and x-rays.

''(vii) Prescription drug benefits.

''(B) LIMITATION.—Nothing in subparagraph (A) shall be construed to require that a three-share program provide coverage for services performed outside the region described in paragraph (2)(A)(i).

''(C) PREEXISTING CONDITIONS.—A program described in subparagraph (A) shall not be an eligible three-share program under paragraph (1) if any individual can be excluded from coverage under such program because of a preexisting health condition.

''(d) GRANTS FOR EXISTING THREE-SHARE PROGRAMS TO MEET CERTIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator may award grants to three-share programs that are operating on the date of enactment of this section.

''(2) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

''(e) APPLICATION OF STATE LAWS.—Nothing in this section shall be construed to preempt State law.

''(f) DISTRESSED BUSINESS FORMULA.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator of the Health Resources and Services Administration shall develop a formula to determine which businesses qualify as distressed businesses for purposes of this section.

''(2) EFFECT ON INSURANCE MARKET.—Granting eligibility to a distressed business using the formula under paragraph (1) shall not interfere with the insurance market. Any business found to have reduced benefits to qualify as a distressed business under the formula under paragraph (1) shall not be eligible to be a three-share program for purposes of this section.

''(g) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Health Resources and Services Administration.

''(2) COVERED INDIVIDUAL.—The term 'covered individual' means—

''(A) a qualified employee; or

''(B) a child under the age of 23 or a spouse of such qualified employee who—

''(i) lacks access to health care coverage through their employment or employer;

''(ii) lacks access to health coverage through a family member;

''(iii) is not eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(iv) does not qualify for benefits under the State Children's Health Insurance Program under title XXI.

''(3) DISTRESSED BUSINESS.—The term 'distressed business' means a business that—

''(A) in light of economic hardship and rising health care premiums may be forced to discontinue or scale back its health care coverage; and

''(B) qualifies as a distressed business according to the formula under subsection (g).

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that meets the requirements of subsection (a)(2)(A).

''(5) QUALIFIED EMPLOYEE.—The term 'qualified employee' means any individual employed by a qualified employer who meets certain criteria including—

''(A) lacking access to health coverage through a family member or common law partner;

''(B) not being eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(C) agreeing that the share of fees described in subsection (a)(2)(B)(i) shall be paid in the form of payroll deductions from the wages of such individual.

''(6) QUALIFIED EMPLOYER.—The term 'qualified employer' means an employer as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) who—

''(A) is a small business concern as defined in section 3(a) of the Small Business Act (15 U.S.C. 632);

''(B) is located in the region described in subsection (a)(2)(A)(i); and

''(C) has not contributed to the health care benefits of its employees for at least 12 months consecutively or currently provides insurance but is classified as a distressed business.

''(g) EVALUATION.—Not later than 90 days after the end of the 5-year period during which grants are available under this section, the General Accounting Office shall submit to the Secretary and the appropriate committees of Congress a report concerning—

''(1) the effectiveness of the programs established under this section;

''(2) the number of individuals covered under such programs;

''(3) any resulting best practices; and

''(4) the level of community involvement.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2005 through 2010.''.

By Mr. NELSON of Florida (for himself and Mr. ROCKEFELLER):

S. 2545. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individual's health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleague and cosponsor Senator JAY ROCKEFELLER as we introduce the Advance Directives Improvement and Education Act of 2004. Senators ROCKEFELLER and COLLINS, along with Senator WYDEN, sponsored a bill with similar goals in the 107th Congress and have provided invaluable support and counsel in drafting the bill we introduce today.

The Advance Directives Improvement and Education Act of 2004 has a simple purpose: to encourage all adults in America, especially those 65 and older, to think about, talk about and write down their wishes for medical care near the end-of-life should they become unable to make decisions for themselves. Advance directives, which include a living will, stating the individual's preferences for care, and a power of attorney for health care, are critical documents that each of us should have. The goal is clear, but reaching it requires that we educate the public about the importance of advance directives, offer opportunities for discussion of the issues, and reinforce the requirement that health care providers honor patients' wishes. This bill is designed to do just that.

Americans are afraid of death. We don't like to think about it, talk about it, or plan for it. Any yet, we will all face it. Not only our own deaths, but our parents, siblings, friends, and sometimes, tragically, children. Today, most Americans face death unprepared. Family members frequently end up making critical medical decisions for incapacitated patients, yet they, too, are unprepared. Only 15 to 20 percent of adults have advance directives. Among this group, many have not discussed the contents of these important documents with their families or even the person named as the health care proxy.

It is time to bring this discussion into the mainstream. Too much is at stake to continue to deny our mortality. You all know about the tragic situation going on in Florida with Terri Schiavo. Here is a young woman in a persistent vegetative state who is the subject of a debate about her treatment between her husband and her parents, a debate that has now become a court case and a legislative quagmire. Why? Because she didn't write down what type of care she would want in the event an accident, illness or other medical condition caused her to be in an incapacitated state. She is young and didn't think about death or dying. If she had an advance directive that made her wishes clear and named a health care proxy to make decisions for her should she be unable to do so for herself, the treatment debate might continue, but there would be no question as to who could decide. The Supreme Court has clearly affirmed that competent adults have the right to refuse unwanted medical treatment Washington v. Glucksburg and Vacco v. Quill, 1997, but it also stressed that advance directives are a means of safeguarding that right should adults become incapable of deciding for themselves.

Fortunately, situations like Mrs. Schiavo's are rare. Of the 2.5 million people who die each year 83 percent are Medicare beneficiaries. In fact, 27 percent of Medicare expenditures cover care in the last year of life. Remember, everyone who enrolls in Medicare will die on Medicare. The Advance Directives Improvement and Education Act encourages all Medicare beneficiaries to prepare advance directives by providing a free physician office visit for the purpose of discussing end-of-life care choices and other issues around medical decision-making in a time of incapacitation. Physicians will be reimbursed for spending time with their patients to help them understand situations in which an advance directive would be useful, medical options, the Medicare hospice benefit and other concerns. The conversation will also enable phyisicans to learn about their patients' wishes, fears, religious beliefs, and life experiences that might influence their medical care wishes. These are important aspects of a physician-patient relationship that are too often unaddressed.

Another part of our bill will provide funds for the Department of Health and Human Services to conduct a public education campaign to raise awareness of the importance of planning for care near the end of life. This campaign would explain what advance directives are, where they are available, what questions need to be asked and answered, and what to do with the executed documents. HHS, directly or through grants, would also establish an information clearinghouse where consumers could receive state-specific information and consumer-friendly documents and publications.

State-specific information is needed because in addition to the federal Patients Self-Determination Act passed in 1990, most states also have enacted advance directive laws. Because the state laws differ, some states may be reluctant to honor advance directives that were executed in another state. The bill we introduce today contains language that would make all advance directives ''portable,'' that is, useful from one state to another. As long as the documents were lawfully executed in the state of origin, they must be accepted and honored in the state in which they are presented, unless to do so would violate state law.

All of the provisions in the Advance Directives Improvement and Education Act of 2004 are there for one reason: to increase the number of people in the United States who have advance directives, who have discussed their wishes with their physicians and families, and who have given copies of the directives to their loved ones, health care providers, and legal representatives.

Senator ROCKEFELLER and I all believe that as our Medicare population grows and life expectancy lengthens, improving care near the end of life must be a priority. Helping people complete these critical documents is an essential part of making the final journey as meaningful and peaceful as possible.

Over the next decade or two our elderly population will grow. Baby-boomers, used to having control of

their lives and demanding the best, will be stunned to discover that good end-of-life care is hard to find. I recommend to all of you a report called Means to a Better End: A Report on Dying in America Today that was published in November 2002 by Last Acts Partnership. In it, every state and the District of Columbia was rated on eight different criteria to assess the state of end-of-life care in this country. Not one state—not mine, not yours—received a high grade. Some did well in one or two areas, but none did well in half or more of the measures; all were mediocre at best. The researchers found that too many people end their days in hospitals and nursing homes, attached to machines, alone, in pain. Doctors, not wanting to admit ''failure,'' as many of them see death, urge aggressive treatments such as chemotherapy on patients who have little chance of responding to it. Pain medication is often underprescribed or withheld for fear that the dying patient—dying patient—might become addicted to the drug.

The good news is that growing numbers of health care providers, nonprofit organizations and consumer advocates recognize the need for change. New palliative care programs, pain protocols and hospice services are being instituted in facilities around the country. Another Last Acts Partnership publication, On the Road from Theory to Practice highlights the best programs and practices for others to emulate.

This body is a legislative institution not a medical one—with the exception of the distinguished majority leader, of course. We cannot legislate good medical care or compassion. What we can do, what I hope we will do, is to enact this bill so that the American public can participate in improving end-of-life care—first, by filling out their own advice directives and talking to their families about them; and by raising their voices to demand that our health care systems honor their wishes and improve the way they care for people who are near the end of life. If we can do that, we will have done a great deal.

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

Mr. President, I also ask that a letter of support for this legislation from the Last Acts Partnership also be printed in the RECORD.

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

S. 2545

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advance Directives Improvement and Education Act of 2004''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Every year 2,500,000 people die in the United States. Eighty percent of those people die in institutions such as hospitals, nursing homes, and other facilities. Chronic illnesses, such as cancer and heart disease, account for 2 out of every 3 deaths.

(2) In January 2004, a study published in the Journal of the American Medical Association concluded that many people dying in institutions have unmet medical, psychological, and spiritual needs. Moreover, family members of decedents who received care at home with hospice services were more likely to report a favorable dying experience.

(3) In 1997, the Supreme Court of the United States, in its decisions in Washington v. Glucksberg and Vacco v. Quill, reaffirmed the constitutional right of competent adults to refuse unwanted medical treatment. In those cases, the Court stressed the use of advance directives as a means of safeguarding that right should those adults become incapable of deciding for themselves.

(4) A study published in 2002 estimated that the overall prevalence of advance directives is between 15 and 20 percent of the general population, despite the passage of the Patient Self-Determination Act in 1990, which requires that health care providers tell patients about advance directives.

(5) Competent adults should complete advance care plans stipulating their health care decisions in the event that they become unable to speak for themselves. Through the execution of advance directives, including living wills and durable powers of attorney for health care according to the laws of the State in which they reside, individuals can protect their right to express their wishes and have them respected.

(b) PURPOSES.—The purposes of this Act are to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

SEC. 3. MEDICARE COVERAGE OF END-OF-LIFE PLANNING CONSULTATIONS.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 642(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), is amended—

(1) in subparagraph (Y), by striking ''and'' at the end;

(2) in subparagraph (Z), by inserting ''and'' at the end; and

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

''(AA) end-of-life planning consultations (as defined in subsection (bbb));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 706(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2339), is amended by adding at the end the following new subsection:

''End-of-Life Planning Consultation

''(bbb) The term 'end-of-life planning consultation' means physicians' services—

''(1) consisting of a consultation between the physician and an individual regarding—

''(A) the importance of preparing advance directives in case an injury or illness causes the individual to be unable to make health care decisions;

''(B) the situations in which an advance directive is likely to be relied upon;

''(C) the reasons that the development of a comprehensive end-of-life plan is beneficial and the reasons that such a plan should be updated periodically as the health of the individual changes;

''(D) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decision maker (health care proxy); and

''(E) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive; and

''(2) that are furnished to an individual on an annual basis or immediately following any major change in an individual's health condition that would warrant such a consultation (whichever comes first).''.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395*l*(b)) is amended—

(A) by striking ''and'' before ''(6)''; and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to an end-of-life planning consultation (as defined in section 1861(bbb))''.

(2) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) in clause (N), by inserting ''(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))'' after ''80 percent''; and

(B) in clause (O), by inserting ''(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))'' after ''80 percent''.

(d) PAYMENT FOR PHYSICIANS' SERVICES.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)), as amended by section 611(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2304), is amended by inserting ''(2)(AA),'' after ''(2)(W),''.

(e) FREQUENCY LIMITATION.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)), as amended by section 613(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2306), is amended—

(1) by striking ''and'' at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting '', and''; and

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

''(N) in the case of end-of-life planning consultations (as defined in section 1861(bbb)), which are performed more frequently than is covered under paragraph (2) of such section;''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2005.

SEC. 4. IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

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

''(5)(A) In addition to the requirements of paragraph (1), a provider of services, Medicare Advantage organization, or prepaid or eligible organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

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

''(6)(A) In addition to the requirements of paragraph (1), a provider or organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 5. INCREASING AWARENESS OF THE IMPORTANCE OF END-OF-LIFE PLANNING.

Title III of the Public Health Service Act is amended by adding at the end the following new part:

''PART R—PROGRAMS TO INCREASE AWARENESS OF ADVANCE DIRECTIVE PLANNING ISSUES

''SEC. 399Z–1. ADVANCE DIRECTIVE EDUCATION CAMPAIGNS AND INFORMATION CLEARINGHOUSES.

''(a) ADVANCE DIRECTIVE EDUCATION CAMPAIGN.—The Secretary shall, directly or through grants awarded under subsection (c), conduct a national public education campaign—

''(1) to raise public awareness of the importance of planning for care near the end of life;

''(2) to improve the public's understanding of the various situations in which individuals may find themselves if they become unable to express their health care wishes;

''(3) to explain the need for readily available legal documents that express an individual's wishes, through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care); and

''(4) to educate the public about the availability of hospice care and palliative care.

''(b) INFORMATION CLEARINGHOUSE.—The Secretary, directly or through grants awarded under subsection (c), shall provide for the establishment of a national, toll-free, information clearinghouse as well as clearinghouses that the public may access to find out about State-specific information regarding advance directive and end-of-life decisions.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall use at least 60 percent of the funds appropriated under subsection (d) for the purpose of awarding grants to public or nonprofit private entities (including States or political subdivisions of a State), or a consortium of any of such entities, for the purpose of conducting education campaigns under subsection (a) and establishing information clearinghouses under subsection (b).

''(2) PERIOD.—Any grant awarded under paragraph (1) shall be for a period of 3 years.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000.''.

SEC. 6. GAO STUDIES AND REPORTS ON END-OF-LIFE PLANNING ISSUES.

(a) STUDY AND REPORT ON COMPLIANCE WITH ADVANCE DIRECTIVES AND OTHER ADVANCE PLANNING DOCUMENTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of advance directives in making patients' wishes known and honored by health care providers.

(2) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

(b) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of the amendments made by section 3 (relating to medicare coverage of end-of-life planning consultations).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

(c) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

LAST ACTS PARTNERSHIP,
Washington, DC, June 17, 2004.

Senator BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of Last Acts Partnership, a national nonprofit organization dedicated to improving care and

caring near the end of life, I thank you for introducing the ''Advance Directives Improvement and Education Act of 2004.'' Your recognition of the importance of advance care planning and your leadership in crafting this legislation is greatly appreciated. We applaud your commitment to educating Americans about the need for these critical documents and support the goal of encouraging all Medicare beneficiaries to discuss advance directives with their physicians and families.

A life-threatening or terminal illness or a tragic accident takes its toll not only on the patient but on his or her family as well. After more than 60 years of working in the end-of-life care field, Last Acts Partnership (formerly Partnership for Caring and Choice in Dying) knows full well how much worse it is when people are asked to make decisions for a loved one having never discussed his or her wishes for care at the end of life. Advance directives and the necessary conversations that should accompany them are a gift to guide those who find themselves responsible for another's care.

Ensuring that each of us receives the kind of care we want if we are incapacitated or approaching death must be a policy priority as we look to the future of health care. The portability provision in your bill is another necessary step toward that goal. Providing an information clearinghouse is also key because too many people, including health care providers, are unaware of options such as hospice and palliative care, home care, spiritual counseling and other resources.

Again, Senator, we thank you, your cosponsors, and all of the senators who join in support of this important legislation. Last Acts Partnership looks forward to assisting you and your staff as it moves through the legislative process. Our membership and our collegial organizations will be working to support the passage of the ''Advance Directives Improvement and Education Act of 2004'' and, more importantly, to assure that the health care wishes of our loved ones and ourselves will be honored.

Sincerely,

KAREN ORLOFF KAPLAN, MSW, MPH, ScD,
President and CEO.

By Mr. DURBIN:

S. 2546. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, today I am introducing legislation that will strengthen consumer confidence in the safety of genetically engineered food and genetically engineered animals that may enter the food supply. This bill, known as the Genetically Engineered Food Act (GEFA) of 2004, requires the Federal Food and Drug Administration (FDA) to conduct an environmental and safety review of all genetically engineered plants and animals that may enter the food supply.

Our country has been blessed with one of the safest and most abundant food supplies in the world but we can do better. Genetically engineered foods have become a major portion of the American food supply and promise to become a larger part in the future. The next generation of genetically engineered foods will be more complex, will possess more novel genetic variations and will challenge regulatory agencies' ability to assess and manage their food safety and potential environmental effects.

Currently, the FDA screens genetically engineered foods through a voluntary consultation program. Despite assurances from the FDA for the past two years that the proposed and more stringent ''pre-market biotechnology notification'' (PBN) rules governing genetically engineered foods were imminent, those rules have yet to appear.

The Genetically Engineered Food Act of 2004 will create a transparent process that promotes public participation as decisions are made regarding the safety and environmental impact of genetically engineered plants and animals.

This bill will make the review process mandatory in place of the current voluntary system, which will reduce the chance that a potentially harmful product could bypass or receive inadequate regulatory oversight. The measure will establish unambiguous and predictable pathways for developers of genetically modified foods to gain approval to go to market and will ensure consumer confidence in the integrity of the system through a fully transparent review process.

An improved regulatory system for genetically engineered foods will boost consumer confidence in biotechnology derived foods, give federal agencies clear legal authority to deal with new technology and provide a process to detect problems even after genetically engineered foods are approved.

The Genetically Engineered Food Act of 2004 will strengthen government oversight in several important ways.

Mandatory Review: Producers of genetically engineered foods will be required to receive approval from the FDA before introducing their products into interstate commerce. The FDA will ensure, based on the best scientific evidence, that genetically engineered foods are just as safe as comparable food products before allowing them on the market.

Public Involvement and Transparency: In order for our country to gain the benefits that genetically engineered plants and animals can offer as additional sources of food, public confidence must be maintained in the safety of these products. My bill will provide for public involvement in the approval process by providing information to consumers, and giving them the opportunity to provide comments. Adding transparency will increase the public's understanding and confidence in the safety of these animals as they enter the food supply.

Scientific studies and other materials submitted to the FDA as part of the mandatory review of genetically engineered foods will be made available for public review and comment. Members of the public will be able to submit any new information on genetically engineered foods not previously available to the FDA and request a new review of a particular genetically engineered food product even if that food is already on the market.

Testing: The FDA, in conjunction with other Federal agencies, will be given the authority to conduct scientifically-sound testing to determine whether genetically engineered foods are inappropriately entering the food supply.

Communication: The FDA and other Federal agencies will establish a registry of genetically engineered foods for easy access to information about those foods that have been cleared for market. The genetically engineered food review process will be fully transparent to give the public access to all non-confidential information.

Environmental Review with Respect to Animals: While genetically engineered foods such as corn and soybeans are already part of our food supply, genetically engineered animals will also soon be ready for market approval. These animals hold much promise as an additional source of food for our nation. However, we must ensure not only the safety of these genetically engineered animals as they enter the food supply, but also the impact of these animals as they come in contact with the environment.

The provisions of my bill are consistent with the recommendations made in the 2004 National Academy of Sciences report, ''Biological Confinement of Genetically Engineered Organisms''; the Pew Initiative on Food and Biotechnology 2004 report, ''Issues in the Regulation of Genetically Engineered Plants and Animals''; and the 2004 report from the Ecological Society of America, ''Genetically Engineered Organisms and the Environment''.

The FDA has a mandatory review process in place that is used to review the food safety of genetically engineered animals before they enter the food supply. However, this bill will provide the FDA with additional oversight authorities to address the potential environmental impact of genetically engineered animals prior to their safety approval.

Environmental issues have been identified as a major science-based concern associated with genetically engineered animals. Therefore, to obtain approval to market a genetically engineered animal, the developer must include an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment. A plan must also be in place to reduce or eliminate any negative effects. If the environmental assessment is not adequate, approval will not be granted.

I urge my colleagues to join me in this effort to strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. The Genetically Engineered Foods Act of 2004 will help provide the public with the added assurance that

genetically engineered foods and animals are safe to produce and consume. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2546

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 ''Genetically Engineered Foods Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) genetically engineered food is rapidly becoming an integral part of domestic and international food supplies;

(2) the potential positive effects of genetically engineered foods are enormous;

(3) the potential for both anticipated and unanticipated effects exists with genetic engineering of foods;

(4) genetically engineered food not approved for human consumption has, in the past, entered the human food supply;

(5) environmental issues have been identified as a major science-based concern associated with animal biotechnology;

(6) it is essential to maintain—

(A) public confidence in—

(i) the safety of the food supply; and

(ii) the ability of the Federal Government to exercise adequate oversight of genetically engineered foods; and

(B) the ability of agricultural producers and other food producers of the United States to market, domestically and internationally, foods that have been genetically engineered;

(7) public confidence can best be maintained through careful review and formal determination of the safety of genetically engineered foods, and monitoring of the positive and negative effects of genetically engineered foods as the foods become integrated into the food supply, through a review and monitoring process that—

(A) is scientifically sound, open, and transparent;

(B) fully involves the general public; and

(C) does not subject most genetically engineered foods to the lengthy food additive approval process; and

(8) because genetically engineered foods are developed worldwide and imported into the United States, it is imperative that imported genetically engineered food be subject to the same level of oversight as domestic genetically engineered food.

SEC. 3. DEFINITIONS.

(a) THIS ACT.—In this Act, the terms ''genetic engineering technique'', ''genetically engineered animal'', ''genetically engineered food'', ''interstate commerce'', ''producer'', ''safe'', and ''Secretary'' have the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by subsection (b)).

(b) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in subsection (v)—

(A) by striking ''(v) The term'' and inserting the following:

''(v) NEW ANIMAL DRUG.—

''(1) IN GENERAL.—The term'';

(B) by striking ''(1) the composition'' and inserting ''(A) the composition'';

(C) by striking ''(2) the composition'' and inserting ''(B) the composition''; and

(D) by adding at the end the following:

''(2) INCLUSION.—The term 'new animal drug' includes—

''(A) a genetic engineering technique intended to be used to produce an animal; and

''(B) a genetically engineered animal.''; and

(2) by adding at the end the following:

''(nn) GENETICALLY ENGINEERED ANIMAL.—

(1) IN GENERAL.—The term 'genetically engineered animal' means an animal that—

''(A) is intended to be used—

''(i) in the production of a food or dietary supplement; or

''(ii) for any other purpose;

''(B)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(C) is produced using a genetic engineering technique.

''(2) EXCLUSION.—The term 'genetically engineered animal' does not include an established line of a genetically modified animal that—

''(A) is used solely in scientific research; and

''(B) is not intended or expected—

''(i) to enter the food supply; or

''(ii) to be released into the environment.

''(oo) GENETICALLY ENGINEERED FOOD.—

''(1) IN GENERAL.—The term 'genetically engineered food' means a food or dietary supplement, or a seed, microorganism, or ingredient intended to be used to produce a food or dietary supplement, that—

''(A)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(B) is produced using a genetic engineering technique.

''(2) INCLUSION.—The term 'genetically engineered food' includes a split use food.

''(3) EXCLUSION.—The term 'genetically engineered food' does not include a genetically engineered animal.

''(pp) GENETIC ENGINEERING TECHNIQUE.—The term 'genetic engineering technique' means the use of a transformation event to derive food from a plant or animal or to produce an animal.

''(qq) PRODUCER.—The term 'producer', with respect to a genetically engineered animal, genetically engineered food, or genetic engineering technique, means a person that—

''(1) develops, manufactures, or imports the genetically engineered animal or genetically engineered food;

''(2) uses the genetic engineering technique; or

''(3) takes other action to introduce the genetically engineered animal, genetically engineered food, or genetic engineering technique into interstate commerce.

''(rr) SAFE.—The term 'safe', with respect to a genetically engineered food, means—

''(1) as safe as comparable food that is not produced using a genetic engineering technique; or

''(2) if there is no such comparable food, having a reasonable certainty of causing no harm.

''(ss) SPLIT USE FOOD.—The term 'split use food' means a product that—

''(1)(A) is produced in the United States; or

''(B) is offered for import into the United States;

''(2) is produced using a genetic engineering technique; and

''(3) could be used as food by both humans and animals but that the producer does not intend to market as food for humans.

''(tt) TRANSFORMATION EVENT.—The term 'transformation event' means the introduction into a plant or an animal of genetic material that has been manipulated in vitro.''.

SEC. 4. GENETICALLY ENGINEERED FOODS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended—

(1) by inserting after the chapter heading the following:

''Subchapter A—General Provisions''; and

(2) by adding at the end the following:

''Subchapter B—Genetically Engineered Foods

''SEC. 421. PREMARKET CONSULTATION AND APPROVAL.

''(a) IN GENERAL.—A producer of genetically engineered food, before introducing a genetically engineered food into interstate commerce, shall first obtain approval through the use of a premarket consultation and approval process.

''(b) REGULATIONS.—The Secretary shall promulgate regulations that describe—

''(1) all information that is required to be submitted for the premarketing approval process, including—

''(A) specification of the species or other taxonomic classification of plants for which approval is sought;

''(B) identification of the genetically engineered food;

''(C)(i) a description of each type of genetic manipulation made to the genetically engineered food;

''(ii) identification of the manipulated genetic material; and

''(iii) the techniques used in making the manipulation;

''(D) the effect of the genetic manipulation on the composition of the genetically engineered food (including information describing the specific substances that were expressed, removed, or otherwise manipulated);

''(E) a description of the actual or proposed applications and uses of the genetically engineered food;

''(F) information pertaining to—

''(i) the safety of the genetically engineered food as a whole; and

''(ii) the safety of any specific substances introduced, altered, or produced as a result of the genetic manipulation (including information on allergenicity and toxicity);

''(G) test methods for detection of the genetically engineered ingredients in food;

''(H) a summary and overview of information and issues that have been or will be addressed by other regulatory programs for the review of genetically engineered food;

''(I) procedures to be followed to initiate and complete the premarket approval process (including any preconsultation and consultation procedures); and

''(J) any other matters that the Secretary determines to be necessary.

''(2) SPLIT USE FOOD.—

''(A) IN GENERAL.—The regulations under paragraph (1) shall provide for the approval of—

''(i) split use foods that are not approved for human consumption;

''(ii) split use foods that are intended for human use but are marketed under restricted conditions; and

''(iii) other categories of split use food.

''(B) ISSUES.—For each category of split use food, the regulations shall address—

''(i)(I) whether a protocol is needed for segregating a restricted split use food from the food supply; and

''(II) if so, what the protocol shall be;

''(ii)(I) whether action is needed to ensure the purity of any seed to prevent unintended introduction of a genetically engineered trait into a seed that is not designed for that trait; and

''(II) if so, what action is needed and what industry practices represent the best practices for maintaining the purity of the seed;

''(iii)(I) whether a tolerance level should exist regarding cross-mixing of segregated split use foods; and

''(II) if so, the means by which the tolerance level shall be determined;

''(iv) the manner in which the food safety analysis under this section should be conducted, specifying different standards and procedures that are permitted to be applied for nonfood products grown in food crops depending on the degree of containment for that product and the likelihood of the product to enter the food supply;

''(v)(I) the kinds of surveillance that are needed to ensure that appropriate segregation of split use foods is being maintained;

''(II) the manner in which and by whom the surveillance shall be conducted; and

''(III) the manner in which the results of surveillance shall be reported; and

''(vi) clarification of responsibility in cases of breakdown of segregation of a split use food.

''(C) RECALL AUTHORITY.—The regulations shall provide that, in addition to other authority that the Secretary has regarding split use food, the Secretary may order a recall of any split use food (whether or not the split use food has been approved under this section) that—

''(i) is not approved, but has entered the food supply; or

''(ii) has entered the food supply in violation of a condition of restriction under an approval.

''(c) APPLICATION.—The regulations shall require that, as part of the consultation and approval process, a producer submit to the Secretary an application that includes a summary and a complete copy of each research study, test result, or other information referenced by the producer.

''(d) REVIEW.—

''(1) IN GENERAL.—After receiving an application under subsection (c), the Secretary shall—

''(A) determine whether the producer submitted information that appears to be adequate to enable the Secretary to fully assess the safety of the genetically engineered food, and make a description of the determination publicly available; and

''(B) if the Secretary determines that the producer submitted adequate information—

''(i) provide public notice regarding the initiation of the consultation and approval process;

''(ii) make the notice, application, summaries submitted by the producer, and research, test results, and other information referenced by the producer publicly available, including, to the maximum extent practicable, publication in the Federal Register and on the Internet; and

''(iii) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—The Secretary may withhold information in an application from public dissemination to protect a trade secret (not including any information disclosing the results of testing to determine whether the genetically engineered food is safe) if—

''(A) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(B) the applicant—

''(i) identifies with specificity the trade secret information in the application; and

''(ii) provides the Secretary with a detailed justification for each trade secret claim; and

''(C) the Secretary—

''(i) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(ii) makes the determination available to the public.

''(3) DETERMINATION.—Not later than 180 days after determining adequacy of an application under paragraph (1)(A), the Secretary shall issue and make publicly available a determination that—

''(A) summarizes the information referenced by the producer in light of the public comments; and

''(B) contains a finding that the genetically engineered food—

''(i) is safe and may be introduced into interstate commerce;

''(ii) is safe under specified conditions of use and may be introduced into interstate commerce if those conditions are met; or

''(iii) is not safe and may not be introduced into interstate commerce, because the genetically engineered food—

''(I) contains genes that confer antibiotic resistance;

''(II) contains an allergen; or

''(III) presents 1 or more other safety concerns described by the Secretary.

''(4) EXTENSION.—The Secretary may extend the period specified in paragraph (3) if the Secretary determines that an extension of the period is necessary to allow the Secretary to—

''(A) review additional information; or

''(B) address 1 or more issues or concerns of unusual complexity.

''(e) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the petition of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetically engineered food on the basis of information that was not available before the approval.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered food that were not considered in the earlier review; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—

''(A) IN GENERAL.—In conducting the reconsideration, the Secretary may require the producer to provide, within a reasonable period of time specified by the Secretary, information needed to facilitate the reconsideration.

''(B) INFORMATION NOT PROVIDED.—If a producer fails to provide information required under subparagraph (A) within the period specified by the Secretary, the Secretary shall take 1 or more of the actions described in paragraph (5).

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered food; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a reconsideration under this section, the Secretary determines that the genetically engineered food is not safe, the Secretary shall—

''(A) rescind the approval of the genetically engineered food for introduction into interstate commerce;

''(B) recall the genetically engineered food; or

''(C) take such other action as the Secretary determines to be appropriate.

''SEC. 422. MARKETPLACE TESTING AND POST-MARKETING OVERSIGHT.

''(a) TESTING.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall establish a program to conduct testing that the Secretary determines to be necessary to detect, at all stages of production and distribution (from agricultural production to retail sale), the presence of genetically engineered ingredients in food.

''(2) PERMISSIBLE TESTING.—Under the program, the Secretary may conduct tests on foods to detect genetically engineered ingredients—

''(A) that have not been approved for use under this Act, including foods that are developed in foreign countries that have not been approved for marketing in the United States under this Act; or

''(B) the use of which is restricted under this Act (including approval for use as animal feed only, approval only if properly labeled, and approval for growing or marketing only in certain regions).

''(b) POST-MARKET OVERSIGHT.—

''(1) IN GENERAL.—The Secretary shall establish a program to monitor and evaluate the continued safety after commercialization of genetically engineered foods approved under section 421.

''(2) ACTIVITIES.—Under the program, the Secretary shall—

''(A) take appropriate actions to ensure that each split-use food complies with any restriction or other condition on the approval of the split-use food; and

''(B) conduct inspections and monitoring of genetically engineered foods and facilities that produce genetically engineered foods to ensure that only approved genetically engineered foods are marketed to humans.

''SEC. 423. REGISTRY.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other agencies, as appropriate, shall establish a registry for genetically engineered food that contains a description of the regulatory status of all genetically engineered foods approved under section 421.

''(b) REQUIREMENTS.—The registry under subsection (a) shall contain, for each genetically engineered food—

''(1) the technical and common names of the genetically engineered food;

''(2) a description of the regulatory status, under all Federal programs pertaining to the testing and approval of genetically engineered foods, of the genetically engineered food;

''(3) a technical and nontechnical summary of the type of, and a statement of the reason for, each genetic manipulation made to the genetically engineered food;

''(4) the name, title, address, and telephone number of an official at each producer of the genetically engineered food whom members of the public may contact for information about the genetically engineered food;

''(5) the name, title, address, and telephone number of an official at each Federal agency with oversight responsibility over the genetically engineered food whom members of the public may contact for information about the genetically engineered food; and

''(6) such other information as the Secretary determines should be included.

''(c) PUBLIC AVAILABILITY.—The registry under subsection (a) shall be made available to the public, including availability on the Internet.''.

SEC. 5. GENETICALLY ENGINEERED ANIMALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 512 the following:

''SEC. 512A. GENETICALLY ENGINEERED ANIMALS.

''(a) IN GENERAL.—Section 512 shall apply to genetic engineering techniques intended to be used to produce an animal, and to genetically engineered animals, as provided in this section.

''(b) APPLICATION.—An application under section 512(b)(1) shall include—

''(1) specification of the species or other taxonomic classification of the animal for which approval is sought;

''(2) an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment, including the potential effect on any nongenetically engineered animal or other part of the environment as a result of any intentional or unintentional exposure of the genetically engineered animal to the environment; and

''(3) a plan to eliminate or mitigate the potential effects to the environment from the release of the genetically engineered animal.

''(c) DISSEMINATION OF APPLICATION AND OPPORTUNITY FOR PUBLIC COMMENT.—

''(1) IN GENERAL.—On receipt of an application under section 512(b)(1), the Secretary shall—

''(A) provide public notice regarding the application, including making the notice available on the Internet;

''(B) make the application and all supporting material available to the public, including availability on the Internet; and

''(C) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—

''(A) IN GENERAL.—The Secretary may withhold information in an application from public dissemination to protect a trade secret (not including any information disclosing the results of testing to determine whether the genetically engineered food is safe) if—

''(i) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(ii) the applicant—

''(I) identifies with specificity the trade secret information in the application; and

''(II) provides the Secretary with a detailed justification for each trade secret claim; and

''(iii) the Secretary—

''(I) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(II) makes the determination available to the public.

''(B) RISK ASSESSMENT INFORMATION.—This paragraph does not apply to information that assesses risks from the release into the environment of a genetically engineered animal (including any environmental assessment or environmental impact statement performed to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)).

''(d) DENIAL OF APPLICATION.—Under section 512(d)(1), the Secretary shall deny an application if—

''(1) the environmental assessment for a genetically engineered animal is not adequate; or

''(2) the plan to eliminate or mitigate the potential environmental effects to the environment from the release of the genetically engineered animal does not adequately protect the environment.

''(e) ENVIRONMENTAL ASSESSMENT.—

''(1) IN GENERAL.—Before determining whether to approve an application under section 512 for approval of a genetic engineering technique intended to be used to produce an animal, or of a genetically engineered animal, the Secretary shall—

''(A) conduct an environmental assessment to evaluate the potential effects of such a genetically engineered animal on the environment; and

''(B) determine that the genetically engineered animal will not have an unreasonable adverse effect on the environment.

''(2) CONSULTATION.—In conducting an environmental assessment under paragraph (1), the Secretary shall—

''(A) consult, as appropriate, with the Department of Agriculture, the United States Fish and Wildlife Service, and any other Federal agency that has expertise relating to the animal species that is the subject of the application; and

''(B) disclose the results of the consultation in the environmental assessment.

''(f) SAFETY DETERMINATION.—In determining the safety of a genetic engineering technique or genetically engineered animal, the Secretary shall consider the potential effects of the genetically engineered animal on the environment, including the potential effect on nongenetically engineered animals.

''(g) PROGENY.—If an application for approval of a genetic engineering technique to produce an animal of a species or other taxonomic classification, or genetically engineered animal, has been approved, no additional application shall be required for animals of that species or other taxonomic classification produced using that genetic engineering technique or for the progeny of that genetically engineered animal.

''(h) SCOPE OF APPROVAL.—The scope of the genetic engineering technique that the Secretary may approve shall be limited to the precise procedures described in the application for approval.

''(i) CONDITIONS OF APPROVAL.—The Secretary may require as a condition of approval of an application that any producer of a genetically engineered animal that is the subject of the application—

''(1) take specified actions to eliminate or mitigate any potential harm to the environment that would be caused by a release of the genetically engineered animal, including actions specified in the plan submitted by the applicant; and

''(2) conduct post-approval monitoring for environmental effects of any release of the genetically engineered animal.

''(j) RECALL; SUSPENSION OF APPROVAL.—

''(1) RECALL.—The Secretary may order a recall of any genetically engineered animal (whether or not the genetically engineered animal, or a genetic engineering technique used to produce the genetically engineered animal, has been approved) that the Secretary determines is harmful to—

''(A) humans;

''(B) the environment;

''(C) any animal that is subjected to a genetic engineering technique; or

''(D) any animal that is not subjected to a genetic engineering technique.

''(2) SUSPENSION OF APPROVAL.—If the Secretary determines that a genetically engineered animal is harmful to the health of humans or animals or to the environment, the Secretary may—

''(A) immediately suspend the approval of application for the genetically engineered animal;

''(B) give the applicant prompt notice of the action; and

''(C) afford the applicant an opportunity for an expedited hearing.

''(k) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the motion of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetic engineering technique or genetically engineered animal on the basis of information that was not available during an earlier review.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered animal that were not considered before the approval; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—

''(A) IN GENERAL.—In conducting the reconsideration, the Secretary may require the producer to provide, within a reasonable period of time specified by the Secretary, information needed to facilitate the reconsideration.

''(B) INFORMATION NOT PROVIDED.—If a producer fails to provide information required under subparagraph (A) within the period specified by the Secretary, the Secretary shall take 1 or more of the actions described in paragraph (5).

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered animal; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a review under this subsection, the Secretary determines that the genetically engineered animal is not safe, the Secretary shall—

''(A) rescind the approval of the genetic engineering technique or genetically engineered animal for introduction into interstate commerce;

''(B) recall the genetically engineered animal; or

''(C) take such other action as the Secretary determines to be appropriate.

''(l) ANIMALS USED IN DEVELOPMENT.—An animal that is used in connection with an investigation intended to support approval of an application under section 512 and this section or that is otherwise used in connection with the development of a genetic engineering technique or production of a genetically engineered animal for which approval is sought shall be deemed unsafe for the purposes of sections 501(a)(5) and 402(a)(2)(C)(ii) unless—

''(1) the applicant submits information required by the Secretary that addresses the food safety of the animal;

''(2) the Secretary publishes the information in the Federal Register and provides a public comment period of not less than 60 days; and

''(3) based on the information provided under paragraph (1), any public comment, and other information available to the Secretary, the Secretary—

''(A) makes a determination that the animal is safe; and

''(B) publishes the determination in the Federal Register and on the Internet.''.

SEC. 6. PROHIBITED ACTS.

(a) UNLAWFUL USE OF TRADE SECRET INFORMATION.—Section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) is amended in the first sentence—

(1) by inserting ''421,'' after ''414,''; and

(2) by inserting ''512A,'' after ''512,''.

(b) ADULTERATED FOOD.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(i) GENETICALLY ENGINEERED ANIMALS.—If it is a genetically engineered animal, or is a genetically engineered animal produced using a genetic engineering technique, that is not approved under sections 512 and 512A.

''(j) GENETICALLY ENGINEERED FOODS.—

''(1) IN GENERAL.—If it is a genetically engineered food, or is a genetically engineered food produced using a genetic engineering technique, that is not approved under section 421.

''(2) SPLIT USE FOODS.—If it is a split use food that does not maintain proper segregation as required under regulations promulgated under section 421.''.

SEC. 7. TRANSITION PROVISION.

(a) IN GENERAL.—A genetic engineering technique, genetically engineered animal, or genetically engineered food that entered interstate commerce before the date of enactment of this Act shall not require approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), but shall be considered to have been so approved, if—

(1) the producer, not later than 90 days after the date of enactment of this Act, submits to the Secretary—

(A) a notice stating that the genetic engineering technique, genetically engineered animal, or genetically engineered food entered interstate commerce before the date of enactment of this Act, providing such information as the Secretary may require; and

(B) a request that the Secretary conduct a review of the genetic engineering technique, genetically engineered animal, or genetically engineered food under subsection (b); and

(2) the Secretary does not issue, on or before the date that is 2 years after the date of enactment of this Act, a notice under subsection (b)(2) that an application for approval is required.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 months after the date on which the Secretary receives a notice and request for review under subsection (a), the Secretary shall review all relevant information in the possession of the Secretary, all information provided by the producer, and other relevant public information to determine whether a review of new scientific information is necessary to ensure that the genetic engineering technique, genetically engineered animal, or genetically engineered food is safe.

(2) NOTICE THAT APPLICATION IS REQUIRED.—If the Secretary determines that new scientific information is necessary to determine whether a genetic engineering technique, genetically engineered animal, or genetically engineered food is safe, the Secretary, not later than 2 years after the date of enactment of this Act, shall issue to the producer a notice stating that the producer is required to submit an application for approval of the genetic engineering technique, genetically engineered animal, or genetically engineered food under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FAILURE TO SUBMIT APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a genetically engineered animal or genetically engineered food with respect to which the Secretary issues a notice that an application is required under subsection (b)(2) shall be considered adulterated under section 402 or 501, as the case may be, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351) unless—

(A) not later than 45 days after the producer receives the notice, the producer submits an application for approval; and

(B) the Secretary approves the application.

(2) PENDING APPLICATION.—A genetically engineered animal or genetically engineered food with respect to which the producer submits an application for approval shall not be considered to be adulterated during the pendency of the application.

SEC. 8. GENETICALLY ENGINEERED CROPS.

To the maximum extent practicable, the Secretary of Agriculture shall ensure that standards for the regulation of genetically engineered field test crops to prevent cross-pollenation with non-genetically engineered crops and prevent adverse effects on the environment are based on the most recent scientific knowledge available.

SEC. 9. REPORTS.

(a) IN GENERAL.—Not later than 2 years, 4 years, and 6 years after the date of enactment of this Act, the Secretary and the heads of other Federal agencies, as appropriate, shall jointly submit to Congress a report on genetically engineered animals, genetically engineered foods, and genetic engineering techniques.

(b) CONTENTS.—A report under subsection (a) shall contain—

(1) information on the types and quantities of genetically engineered foods being offered for sale or being developed, domestically and internationally;

(2) a summary (including discussion of new developments and trends) of the legal status and acceptability of genetically engineered foods in major markets, including the European Union and Japan;

(3) information on current and emerging issues of concern relating to genetic engineering techniques, including issues relating to—

(A) the ecological impact of, antibiotic markers for, insect resistance to, nongerminating or terminator seeds for, or cross-species gene transfer for genetically engineered foods;

(B) foods from genetically engineered animals;

(C) nonfood crops (such as cotton) produced using a genetic engineering technique; and

(D) socioeconomic concerns (such as the impact of genetically engineered animals and genetically engineered foods on small farms);

(4) a response to, and information concerning the status of implementation of, the recommendations contained in the reports entitled ''Genetically Modified Pest Protected Plants'', ''Environmental Effects of Transgenic Plants'', ''Animal Biotechnology Identifying Science-Based Concerns'', and ''Biological Containment of Genetically Engineered Organisms (2004)'', issued by the National Academy of Sciences;

(5) an assessment of the need for data relating to genetically engineered animals and genetically engineered foods;

(6) a projection of—

(A) the number of genetically engineered animals, genetically engineered foods, and genetic engineering techniques that will require regulatory review during the 5-year period following the date of the report; and

(B) the adequacy of the resources of the Food and Drug Administration; and

(7) an evaluation of the national capacity to test foods for the presence of genetically engineered ingredients in food.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 382—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

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

S. RES. 382

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 22, 2004.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

SENATE CONCURRENT RESOLUTION 119—RECOGNIZING THAT PREVENTION OF SUICIDE IS A COMPELLING NATIONAL PRIORITY

Mr. CAMPBELL (for himself, Mr. DODD, Mr. SMITH, Mr. REID, Mr. DAYTON, and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 119

Whereas suicide is one of the most disruptive and tragic events a family and a community can experience, and it occurs at a national rate of 30,000 suicides annually;

Whereas suicide is the fastest growing cause of death among youths and the second leading cause of death among college students;

Whereas suicide kills youths 6 to 9 times more often than homicide;

Whereas research shows that 95 percent of all suicides are preventable;

Whereas research shows that the prevention of suicide must be recognized as a national priority;

Whereas community awareness and education will encourage the development of strategies to prevent suicide;

Whereas during the 105th Congress, both the Senate and the House of Representatives unanimously agreed to resolutions recognizing suicide as a national problem and declaring suicide prevention programs to be a national priority (Senate Resolution 84, 105th Congress, agreed to May 6, 1997, and House of Representatives Resolution 212, 105th Congress, agreed to October 9, 1998);

Whereas the yellow ribbon is rapidly becoming recognized internationally as the symbol for the awareness and prevention of suicide, and it is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers, hospitals, counselors, teachers, parents, and especially youth themselves; and

Whereas the week beginning September 19, 2004, should be recognized as Yellow Ribbon Suicide Awareness and Prevention Week: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that the need to increase awareness about and prevent suicide is a compelling national priority;