

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.

AMENDMENT NO. 3245

At the request of Mr. BOND, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Missouri (Mr. TALENT) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of amendment No. 3245 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.

AMENDMENT NO. 3288

At the request of Mr. FEINGOLD, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. DODD) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 3288 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 3288 proposed to S. 2400, *supra*.

AMENDMENT NO. 3338

At the request of Mr. LEVIN, the names of the Senator from Rhode Island (Mr. REED), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 3338 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.

AMENDMENT NO. 3434

At the request of Ms. SNOWE, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Massachusetts (Mr. KERRY) were withdrawn as cosponsors of amendment No. 3434 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the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.

AMENDMENT NO. 3457

At the request of Mr. BURNS, the name of the Senator from Nevada (Mr.

ENSIGN) was withdrawn as a cosponsor of amendment No. 3457 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. FRIST (for himself and Mr. WYDEN):

S. 2551. A bill to reduce and prevent childhood obesity by encouraging schools and school districts to develop and implement local, school-based programs designed to reduce and prevent childhood obesity, promote increased physical activity, and improve nutritional choices; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Madam President, last Thursday, the Centers for Disease Control and Prevention announced that smoking among high school students has dropped to its lowest level in more than a decade. As a heart and lung surgeon, as one who has seen the travesty of smoking and the devastation it causes in people's lungs and on their heart, this is great news. We are making great strides in this battle against smoking, especially in the teenage years.

Fewer students now say they have never tried cigarettes. The CDC gives part of the credit to effective antismoking media campaigns and antismoking education in the classroom. I mention this demonstrated success, because it energizes us in the battle against an issue that is equally important and, in fact, actually growing among young people, and that is childhood obesity.

The CDC report demonstrates that aggressive education can steer kids away from harmful behaviors and toward making healthier choices. While food is not exactly like cigarettes, one cannot just say no. Childhood obesity is a serious public health threat and a threat that is growing. In fact, the CDC reports that obesity is on its way to surpassing smoking as the leading preventable killer in the United States of America, and that is why Senator WYDEN and I today are introducing a bill called the Childhood Obesity Reduction Act.

We believe early intervention with community and school support at the grassroots level is key to preventing lifelong obesity and the obesity-related illnesses that result. Ten percent of American children are clinically obese. More than 30 percent of American children are overweight, and we know that overweight and obese children have a lower quality of life than their healthy peers. They suffer significantly higher rates of type II diabetes and cardio-

vascular—that is, heart—and blood vessel disease, including heart attack, stroke, and congestive heart failure. Later in life, they are more likely to suffer from lung disease or pulmonary disease complications like sleep apnea, musculoskeletal problems—that is, bone and muscle problems—which include degenerative joint disease and disk disease, and also are more likely to suffer psychosocial problems, including poor self-image, depression, lack of self-esteem, and isolation.

A recent study published in *Pediatrics Magazine* found that obese boys and girls were two times more likely than normal weight children to be intentionally left out of social activities. After adolescence, overweight kids have a 70-percent chance of becoming overweight or obese adults.

The good news is that we can reverse these trends. We need to reverse these trends, and we can reverse these trends. Our kids simply should not have to suffer from a condition that is preventable and treatable based on what we know today. The best way is to start in those earliest of years.

The bill Senator WYDEN and I are introducing today encourages schools to promote physical activity and to teach children how to make healthy food decisions. It also sets up a public-private partnership foundation to fund innovative projects that improve eating and exercise habits in school.

The Childhood Obesity Reduction Act authorizes \$2.2 million for a Congressional council on childhood obesity. The council will seek out model anti-obesity programs in both public and private schools and will award these schools with the Congressional Achievement Award. After 2 years of selecting model programs for other schools to follow, the council will create a public-private partnership called the National Foundation for the Prevention and Reduction of Childhood Obesity. The foundation will give challenge awards to schools that implement those model anti-obesity programs.

In closing, we know that kids need to run, jump, and play. We know that is good for their bodies. We know it is good for their spirits. They need nutritional food that gives them energy, the type of food that really does keep them sharp. They need a school environment that encourages healthy habits, vigor, expenditure of energy, and vitality.

I thank my colleague, Senator WYDEN, for his leadership in this important public health effort. I urge my colleagues to be a part of the solution and am delighted to be able to join with my colleague, Senator WYDEN, in submitting and ultimately passing this legislation, all of which will help Americans keep fit.

Mr. WYDEN. Madam President, the majority leader has given an excellent statement with respect to this issue, and I want to express my appreciation to him for the chance to make this yet another bipartisan kind of effort.

If ever there were a cause that ought to bring the Senate together, fighting childhood obesity is exactly the kind of thing where we ought to be teaming up. I thank my colleague for his excellent statement and for the chance to work with him.

The majority leader and I believe our legislation will help launch a national mobilization to reduce and prevent the epidemic of childhood obesity and help our kids grow up healthy in America. Today, kids are eating greater quantities of less healthy foods. They are exercising less and less.

Childhood obesity has doubled during the past 30 years. In my home State, it is far and away one of our most serious emerging health problems. Ten percent of the 8th graders and 7 percent of the 11th graders in my State are overweight. So, in my view, what we have is nothing short of an epidemic of kids who are not as healthy as they could be and they need to be and not as healthy as children were in previous generations. These kids today have a host of health problems that promise to worsen if nothing is done to change them.

I was particularly pleased that the majority leader highlighted some of the concerns we want to tackle. The situation with respect to type II diabetes is completely unacceptable. This is an illness that used to be virtually unheard of in children. Yet the increase in this disease is literally on a parallel with the documented track of an increase in childhood obesity. One-quarter of children 5 to 10 years of age show early warning signs for health problems such as elevated cholesterol and high blood pressure. Doctors at the Oregon Health Sciences University Obesity Clinic say that referrals of youngsters as young as 6 are becoming virtually routine.

We are not going to see this change happen by osmosis. It is going to come about because adults working with parents, schools, and communities provide some real leadership, and that is what this bipartisan legislation seeks to do. We recognize in this bill that there is a fair amount of good work going on in our communities already, and we recognize this is an issue that needs to be addressed not from Washington, DC, with a one-size-fits-all approach, but it needs to be addressed in our schools and in our communities.

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

What we seek to do is to encourage this kind of bottom-up approach, where schools and communities across the country, relying on leaders in their own hometowns, consulting with experts here from the Congress, will get out state-of-the-art information with respect to making sure we are using all the tools that are out there to fight obesity. We are going to be consulting and coordinating this effort with the President's Council on Physical Fitness so that both sides of the equation, nutrition and exercise, are addressed in the fight against childhood obesity.

We have also concluded it is absolutely critical to use state-of-the-art technology to get out this information. We have proposed a Web site be created to link schools to community groups and leaders who are already working to help kids stay healthy. With a few clicks of the "enter" button, it will be possible for kids in Des Moines to find out what the best approaches are for kids, say, in the rural West.

We believe using this kind of technology is going to allow us to use scarce resources, at a time when we are all concerned about the deficit, to better meet the health needs of children in our communities. Whether it is enlisting local organic farmers to make their produce available to schools or helping our kids become more physically active, what we propose in this bipartisan legislation is a wide variety of options for schools and communities to work together.

I am very pleased that an important feature of the legislation, as noted by the majority leader, is the foundation that would allow us to continue the work of our Congressional Council, which would end once the foundation is established.

Finally, it seems to me the point of this legislation is to target the area where we can make the most difference and that is our schools. Schools, of course, are where the children are. It is where they spend a lot of time. It is a place where they eat, and very often several meals a day. If children can learn in school how to balance their choices, wherever they go and whenever they are confronted with a variety of food options, they can make better choices for themselves.

I see the distinguished chair of the Armed Services Committee is back on the floor. He has an extensive schedule, I know. I don't want to hold this up. I want to wrap this up by saying to the majority leader how much I have enjoyed working with him. We have long felt that health care is one of the issues that can bring the Senate together. If ever there was a health cause that requires what I think is appropriately called a national mobilization in our schools and our communities, fighting childhood obesity is it.

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

S. 2551

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 "Childhood Obesity Reduction Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Centers for Disease Control and Prevention, obesity may soon overtake tobacco as the leading preventable cause of death.

(2) In 1999, 13 percent of children aged 6 to 11 years and 14 percent of adolescents aged 12 to 19 years in the United States were overweight. This prevalence has nearly tripled for adolescents in the past 2 decades.

(3) Risk factors for heart disease, such as high cholesterol and high blood pressure, occur with increased frequency in overweight children and adolescents compared to children with a healthy weight.

(4) Type 2 diabetes, previously considered an adult disease, has increased dramatically in children and adolescents. Overweight and obesity are closely linked to type 2 diabetes.

(5) Obesity in children and adolescents is generally caused by a lack of physical activity, unhealthy eating patterns, or a combination of the 2, with genetics and lifestyle both playing important roles in determining a child's weight.

(6) Overweight adolescents have a 70 percent chance of becoming overweight or obese adults.

(7) The 2001 report "The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity" suggested that obesity and its complications were already costing the United States \$117,000,000,000 annually.

(8) Substantial evidence shows that public health risks can be reduced through increased public awareness and community involvement.

(9) Congress needs to challenge students, teachers, school administrators, and local communities to voluntarily participate in the development and implementation of activities to successfully reduce and prevent childhood obesity.

TITLE I—CONGRESSIONAL COUNCIL ON CHILDHOOD OBESITY

SEC. 101. CONGRESSIONAL COUNCIL ON CHILDHOOD OBESITY.

(a) ESTABLISHMENT OF COUNCIL.—There is established a "Congressional Council on Childhood Obesity" (referred to in this title as the "Council").

(b) PURPOSES.—The purposes of the Council shall be—

(1) to encourage every elementary school and middle school in the United States, whether public or private, to develop and implement a plan to reduce and prevent obesity, promote improved nutritional choices, and promote increased physical activity among students; and

(2) to provide information as necessary to secondary schools.

SEC. 102. MEMBERSHIP OF THE COUNCIL.

(a) COMPOSITION OF THE COUNCIL.—The Council shall be composed of 8 members as follows:

(1) The majority leader of the Senate or the designee of the majority leader of the Senate.

(2) The minority leader of the Senate or the designee of the minority leader of the Senate.

(3) The Speaker of the House of Representatives or the designee of the Speaker of the House of Representatives.

(4) The minority leader of the House of Representatives or the designee of the minority leader of the House of Representatives.

(5) 4 citizen members to be appointed in accordance with subsection (b).

(b) APPOINTMENT OF CITIZEN COUNCIL MEMBERS.—

(1) METHOD OF APPOINTMENT.—For the purpose of subsection (a)(5), each of the 4 members described in paragraphs (1) through (4) of subsection (a) shall appoint to the Council a citizen who is an expert on children's health, nutrition, or physical activity.

(2) DATE OF APPOINTMENT.—The appointments made under paragraph (1) shall be made not later than 120 days after the date of enactment of this Act.

(c) VACANCIES.—Any vacancy in the Council shall not affect its powers, but shall be filled in the manner in which the original appointment was made under subsection (a).

(d) **CHAIRPERSON.**—The members of the Council shall elect, from among the members of the Council, a Chairperson.

(e) **INITIAL MEETING.**—The Council shall hold its first meeting not later than 120 days after the date of enactment of this Act.

SEC. 103. RESPONSIBILITIES OF THE COUNCIL.

(a) **IN GENERAL.**—The Council shall engage in the following activities:

(1) Work with outside experts to develop the Congressional Challenge to Reduce and prevent Childhood Obesity, which shall include the development of model plans to reduce and prevent childhood obesity that can be adopted or adapted by elementary schools or middle schools that participate.

(2) Develop and maintain a website that is updated not less than once a month on best practices in the United States for reducing and preventing childhood obesity.

(3) Assist in helping elementary schools and middle schools in establishing goals for the healthy reduction and prevention of childhood obesity.

(4) Consult and coordinate with the President's Council on Physical Fitness and other Federal Government initiatives conducting activities to reduce and prevent childhood obesity.

(5) Reward elementary schools, middle schools, and local educational agencies promoting innovative, successful strategies in reducing and preventing childhood obesity.

(6) Provide information to secondary schools.

(b) **CONGRESSIONAL CHALLENGE WINNERS.**—

(1) **IN GENERAL.**—The Council shall—

(a) evaluate plans submitted by elementary schools, middle schools, and local educational agencies under paragraph (2);

(b) designate the plans submitted under paragraph (2) that meet the criteria under paragraph (3) as Congressional Challenge winners; and

(c) post the plans of the Congressional Challenge winners designated under subparagraph (b) on the website of the Council as model plans for reducing and preventing childhood obesity.

(2) **SUBMISSION OF PLANS.**—Each elementary school, middle school, or local educational agency that desires to have the plan to reduce and prevent childhood obesity of such entity designated as a Congressional Challenge winner shall submit to the Council such plan at such time, in such manner, and accompanied by such information as the Council may reasonably require.

(3) **SELECTION CRITERIA.**—

(A) **IN GENERAL.**—The Council shall evaluate plans submitted by elementary schools, middle schools, and local educational agencies under paragraph (2) and shall designate as Congressional Challenge winners the plans that—

(i) show promise in successfully increasing physical activity, improving nutrition, and reducing and preventing obesity; or

(ii) have maintained efforts in assisting children in increasing physical activity, improving nutrition, and reducing and preventing obesity.

(B) **CRITERIA.**—The Council shall make the determination under subparagraph (A) based on the following criteria:

(i) Strategies based on evaluated interventions.

(ii) The number of children in the community in need of assistance in addressing obesity and the potential impact of the proposed plan.

(iii) The involvement in the plan of the community served by the school or local educational agency.

(iv) Other criteria as determined by the Council.

(c) **MEETINGS.**—The Council shall hold not less than 1 meeting each year, and all meet-

ings of the Council shall be public meetings, preceded by a publication of notice in the Federal Register.

SEC. 104. ADMINISTRATIVE MATTERS.

(a) **PAY AND TRAVEL EXPENSES.**—

(1) **PROHIBITION OF PAY.**—Members of the Council shall receive no pay, allowances, or benefits by reason of their service on the Council.

(2) **TRAVEL EXPENSES.**—

(A) **COMPENSATION FOR TRAVEL.**—Each member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council, to the extent funds are available under subparagraph (B) for such expenses.

(B) **LIMIT ON TRAVEL EXPENSES.**—Travel expenses under subparagraph (A) shall be appropriated from the amounts appropriated to the legislative branch and shall not exceed \$1,000,000.

(b) **STAFF.**—The Chairperson of the Council may appoint and terminate, as may be necessary to enable the Council to perform its duties, not more than 5 staff personnel, all of whom shall be considered employees of the Senate.

SEC. 105. TERMINATION OF COUNCIL.

The Council shall terminate on September 30 of the second full fiscal year following the date of enactment of this Act.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$2,200,000 for each of fiscal years 2005 and 2006.

TITLE II—NATIONAL FOUNDATION FOR THE PREVENTION AND REDUCTION OF CHILDHOOD OBESITY

SEC. 201. ESTABLISHMENT AND DUTIES OF FOUNDATION.

(a) **IN GENERAL.**—There shall be established in accordance with this section a nonprofit private corporation to be known as the National Foundation for the Prevention and Reduction of Childhood Obesity (referred to in this title as the "Foundation"). The Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of the Foundation shall not be officers or employees of the Federal Government.

(b) **PURPOSE OF FOUNDATION.**—The purpose of the Foundation shall be to support and carry out activities for the prevention and reduction of childhood obesity through school-based activities.

(c) **ENDOWMENT FUND.**—

(1) **IN GENERAL.**—In carrying out subsection (b), the Foundation shall establish a fund for providing endowments for positions that are associated with the Congressional Council on Childhood Obesity and the Department of Health and Human Services (referred to in this title as the "Department") and dedicated to the purpose described in such subsection. Subject to subsection (g)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

(2) **AUTHORIZED EXPENDITURES OF FUND.**—The provision of endowments under paragraph (1) shall be the exclusive function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

(d) **CERTAIN ACTIVITIES OF FOUNDATION.**—In carrying out subsection (b), the Foundation may provide for the following with respect to the purpose described in such subsection:

(1) Evaluate and make known the effectiveness of model plans used by schools to reduce and prevent childhood obesity.

(2) Create a website to assist in the distribution of successful plans, best practices, and other information to assist elementary schools, middle schools, and the public to develop and implement efforts to reduce and prevent childhood obesity.

(3) Participate in meetings, conferences, courses, and training workshops.

(4) Assist in the distribution of data concerning childhood obesity.

(5) Make Challenge awards, pursuant to subsection (e), to elementary schools, middle schools, and local educational agencies for the successful development and implementation of school-based plans.

(6) Other activities to carry out the purpose described in subsection (b).

(e) **CHALLENGE AWARDS.**—

(1) **PROGRAM AUTHORIZED.**—The Foundation may provide Challenge awards to elementary schools, middle schools, and local educational agencies that submit applications under paragraph (2).

(2) **APPLICATION.**—Each elementary school, middle school, or local educational agency that desires to receive a Challenge award under this subsection shall submit an application that includes a plan to reduce and prevent childhood obesity to the Foundation at such time, in such manner, and accompanied by such additional information as the Foundation may reasonably require.

(3) **SELECTION CRITERIA.**—In the program authorized under paragraph (1), the Foundation shall provide Challenge awards based on—

(A) the success of the plans of the elementary schools, middle schools, and local educational agencies in meeting the plans' stated goals;

(B) the number of children in the community served by the elementary school, middle school, or local educational agency who are in need of assistance in addressing obesity; and

(C) other criteria as determined by the Foundation.

(f) **GENERAL STRUCTURE OF FOUNDATION; NONPROFIT STATUS.**—

(1) **BOARD OF DIRECTORS.**—The Foundation shall have a board of directors (referred to in this title as the "Board"), which shall be established and conducted in accordance with subsection (g). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

(2) **EXECUTIVE DIRECTOR.**—The Foundation shall have an executive director (referred to in this title as the "Director"), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

(3) **NONPROFIT STATUS.**—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

(B) is, under subsection (a) of such section, exempt from taxation.

(g) **BOARD OF DIRECTORS.**—

(1) CERTAIN BYLAWS.—

(A) INCLUSIONS.—In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

(ii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

(iii) Policies for the conduct of the general operations of the Foundation.

(iv) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

(B) EXCLUSIONS.—In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

(i) reflect unfavorably upon the ability of the Foundation, or the Department, to carry out its responsibilities or official duties in a fair and objective manner; or

(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

(2) COMPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Board shall be composed of 7 individuals, appointed in accordance with paragraph (4), who collectively possess education or experience appropriate for representing the fields of children's health, nutrition, and physical fitness or organizations active in reducing and preventing childhood obesity. Each such individual shall be a voting member of the Board.

(B) GREATER NUMBER.—The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be a greater number than the number specified in subparagraph (A).

(3) CHAIRPERSON.—The Board shall, from among the members of the Board, designate an individual to serve as the Chairperson of the Board (referred to in this subsection as the "Chairperson").

(4) APPOINTMENTS, VACANCIES, AND TERMS.—Subject to subsection (k) (regarding the initial membership of the Board), the following shall apply to the Board:

(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chairperson and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until the expiration of the 180-day period beginning on the date on which the term of the member expires.

(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

(h) CERTAIN RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—In carrying out subsection (f)(2), the Director shall carry out the following functions:

(1) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees.

(2) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

(3) Establish a process for the selection of candidates for holding endowed positions under subsection (c).

(4) Enter into such financial agreements as are appropriate in carrying out the activities of the Foundation.

(5) Take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation.

(6) Adopt, alter, and use a corporate seal, which shall be judicially noticed.

(7) Commence and respond to judicial proceedings in the name of the Foundation.

(8) Other functions that are appropriate in the determination of the Director.

(1) GENERAL PROVISIONS.—

(A) AUTHORITY FOR ACCEPTING FUNDS.—The Secretary of Health and Human Services (referred to in this title as the "Secretary") may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of the Department. Funds may be accepted and utilized by the Secretary under the preceding sentence without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

(2) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES.—

(A) IN GENERAL.—The Secretary may accept, on behalf of the Federal Government, any voluntary services provided to the Department by the Foundation for the purpose of aiding or facilitating the work of the Department. In the case of an individual, the Secretary may accept the services provided under the preceding sentence by the individual for not more than 2 years.

(B) NON-FEDERAL GOVERNMENT EMPLOYEES.—The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with the Department pursuant to financial support from the Foundation.

(3) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board may exercise any administrative or managerial control over any Federal employee.

(4) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves in association with the Department pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Secretary specifying that the individual—

(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the Department, including standards under this Act, the Ethics in Government Act of 1978 (5 U.S.C. App.), and the Federal Technology Transfer Act of 1986 (Public Law 99-502; 100 Stat. 1785); and

(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Secretary determines is appropriate, except such memorandum may

not provide that the individual shall be subject to the standards of section 209 of such chapter.

(5) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

(A) any direct or indirect financial interest of the individual; or

(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

(6) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

(A) provide for biennial audits of the financial condition of the Foundation; and

(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

(7) REPORTS.—

(A) IN GENERAL.—Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

(B) INCLUSIONS.—With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description, of all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

(C) PUBLIC INSPECTION.—The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(8) LIAISONS.—The Secretary shall appoint liaisons to the Foundation from relevant Federal agencies, including the Office of the Surgeon General and the Centers for Disease Control and Prevention. The Secretary of Agriculture shall designate liaisons to the Foundation as appropriate.

(9) INCLUSION OF THE PRESIDENT'S COUNCIL.—The Foundation shall ensure that the President's Council on Physical Fitness is included in the activities of the Foundation.

(j) FEDERAL FUNDING.—

(1) AUTHORITY FOR ANNUAL GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) for fiscal year 2005, make a grant to an entity described in subsection (k)(9) (relating to the establishment of a committee to establish the Foundation);

(ii) for fiscal years 2006 and 2007, make a grant to the committee established under such subsection, or if the Foundation has been established, to the Foundation; and

(iii) for fiscal year 2008 and each subsequent fiscal year, make a grant to the Foundation.

(B) RULES ON EXPENDITURES.—A grant under subparagraph (A) may be expended—

(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (k)(9) for the entity;

(ii) in the case of the committee established under subsection (k)(9), only for the purpose of carrying out the duties established in subsection (k) for the committee; and

(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

(C) RESTRICTION.—A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

(D) UNOBLIGATED GRANT FUNDS.—For the purposes described in subparagraph (B)—

(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 2005 that remains unobligated after the entity receiving the grant completes the duties established in subsection (k)(9) for the entity shall be available to the committee established under such subsection; and

(ii) any portion of a grant under subparagraph (A) made for fiscal year 2005 or 2006 that remains unobligated after such committee completes the duties established in such subsection for the committee shall be available to the Foundation.

(2) FUNDING FOR GRANTS.—

(A) IN GENERAL.—For the purpose of grants under paragraph (1), there is authorized to be appropriated \$2,200,000 for each fiscal year.

(B) PROGRAMS OF THE DEPARTMENT.—For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than \$2,200,000 from the amounts appropriated for the fiscal year for the programs of the Department. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).

(3) CERTAIN RESTRICTION.—If the Foundation receives Federal funds for the purpose of serving as a fiscal intermediary between Federal agencies, the Foundation may not receive such funds for the indirect costs of carrying out such purpose in an amount exceeding 10 percent of the direct costs of carrying out such purpose. The preceding sentence may not be construed as authorizing the expenditure of any grant under paragraph (1) for such purpose.

(k) COMMITTEE FOR ESTABLISHMENT OF FOUNDATION.—

(1) IN GENERAL.—There shall be established, in accordance with this subsection and subsection (j)(1), a committee to carry out the functions described in paragraph (2) (referred to in this subsection as the “Committee”).

(2) FUNCTIONS.—The functions referred to in paragraph (1) for the Committee are as follows:

(A) To carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this title (or any successor to this title), including such provisions as may be in effect pursuant to amendments enacted after the date of enactment of this Act.

(B) To ensure that the Foundation qualifies for and maintains the status described in subsection (f)(3) (regarding taxation).

(C) To establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (f)(3) and (g)(1).

(D) To provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

(E) To appoint the initial members of the Board in accordance with the requirements established in subsection (g)(2)(A) for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the members so appointed—

(i) 2 shall be appointed to serve for a term of 3 years;

(ii) 2 shall be appointed to serve for a term of 4 years; and

(iii) 3 shall be appointed to serve for a term of 5 years.

(3) COMPLETION OF FUNCTIONS OF COMMITTEE; INITIAL MEETING OF BOARD.—

(A) COMPLETION OF FUNCTIONS.—The Committee shall complete the functions required in paragraph (1) not later than September 30, 2007. The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions have been completed.

(B) INITIAL MEETING.—The initial meeting of the Board shall be held not later than November 1, 2007.

(4) COMPOSITION.—The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

(A) no fewer than 2 of the members shall have expertise in children's health, nutrition, and physical activity; and

(B) no fewer than 2 of the members shall have broad, general experience in nonprofit private organizations (without regard to whether the individuals have experience in children's health, nutrition, and physical activity).

(5) CHAIRPERSON.—The Committee shall, from among the members of the Committee, designate an individual to serve as the Chairperson of the Committee.

(6) TERMS; VACANCIES.—The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the Committee. If a member of the Committee does not serve the full term, the individual appointed by the Secretary to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(7) COMPENSATION.—Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

(8) COMMITTEE SUPPORT.—The Secretary may, from amounts available to the Secretary for the general administration of the Department, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Director may both detail employees and contract for assistance.

(9) GRANT FOR ESTABLISHMENT OF COMMITTEE.—

(A) IN GENERAL.—With respect to a grant under paragraph (1)(A)(i) of subsection (j) for fiscal year 2005, an entity described in this paragraph is a private nonprofit entity with significant experience in children's health, nutrition, and physical activity. Not later than 180 days after the date of enactment of this Act, the Secretary shall make the grant to such an entity (subject to the availability of funds under paragraph (2) of such subsection).

(B) CONDITIONS.—The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

(C) AGREEMENT.—The Secretary may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Secretary containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Secretary determines to be necessary to carry out this paragraph.

By Mr. CONRAD:

S. 2552. A bill to provide environmental assistance to non-Federal interests in the State of North Dakota; to the Committee on Environment and Public Works.

Mr. CONRAD. Madam President, I am introducing the Water Infrastructure Revitalization Act, which authorizes \$60 million through the U.S. Army Corps of Engineers to assist communities in North Dakota with water supply and treatment projects.

Imagine if you went to turn on your kitchen faucet one day and no water came out. This scenario became true for thousands in the communities of Fort Yates, Cannonball, and Porcupine just days before Thanksgiving last year. The loss of drinking water forced the closure of schools, the hospital and tribal offices for days. About 170 miles upstream, the community of Parshall faces similar water supply challenges as the water level on Lake Sakakawea continues to drop, leaving its intake high and dry. These and other communities in the State have faced significant expenditures in extending their intakes to ensure a continued supply of water. In addition, the city of Mandan faces the prospect of constructing a new horizontal well intake because changes in sediment load and flow as a result of the backwater effects of the Oahe Reservoir have caused significant siltation problems that restrict flow into the intake. These examples barely scratch the surface of the problems faced by many North Dakota communities in maintaining a safe, reliable water supply.

Since 1999, the Corps of Engineers has been authorized to design and construct water-related infrastructure projects in several different States including Wisconsin, Minnesota and Montana. The State of North Dakota confronts water infrastructure challenges that are just as difficult as those in these other States. In fact, many of these challenges are caused directly by the Corps of Engineers' operations of the Missouri River dams. As a result, it is only appropriate that the Corps be part of the solution to North Dakota's water needs.

The Water Infrastructure Revitalization Act would provide important supplemental funding to assist North Dakota communities with water-related infrastructure repairs. Under the Act, communities could use the funding for wastewater treatment, water supply facilities, environmental restoration and surface water resource protection.

Projects would be cost shared, with 75 percent Federal funding and 25 percent non-Federal in most instances. However, the bill reduces the financial burden on local communities if necessary to ensure that water rates do not exceed the national affordability criteria developed by the Environmental Protection Agency.

This bill is not intended to compete with or take away funds for the construction of rural water projects under the Dakota Water Resources Act. Instead, it is meant to provide important supplemental funding for communities that are not able to receive funding from the Dakota Water Resources Act. I am pleased that the North Dakota Rural Water Systems Association has recognized the need for additional water project funding and endorsed this bill. It is my hope that this authorization will be included as part of the Water Resources Development Act that will be considered this year.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 385—RECOGNIZING AND HONORING THE 40TH ANNIVERSARY OF CONGRESSIONAL PASSAGE OF THE CIVIL RIGHTS ACT OF 1964

Mr. KENNEDY (for himself, Ms. MIKULSKI, Ms. CANTWELL, Mr. LEVIN, Mr. BINGAMAN, Mr. CORZINE, Mr. LIEBERMAN, Mrs. MURRAY, Mr. FEINGOLD, Mr. DASCHLE, Mr. BYRD, Mr. MILLER, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 385

Whereas 2004 marks the 40th anniversary of congressional passage of the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.);

Whereas the Civil Rights Act of 1964 was the result of decades of struggle and sacrifice of many Americans who fought for equality and justice;

Whereas generations of Americans of every background supported Federal legislation to eliminate discrimination against African-Americans;

Whereas a civil rights movement developed to achieve the goal of equal rights for all Americans;

Whereas President John F. Kennedy, on June 11, 1963, proposed in a nationally televised address that Congress pass civil rights legislation to address the problem of invidious discrimination;

Whereas a broad coalition of civil rights, labor, and religious organizations created national support for civil rights legislation, culminating in a 1963 march on Washington;

Whereas during consideration of the legislation involved, Congress added a historic prohibition against discrimination based on sex;

Whereas Congress passed the Civil Rights Act of 1964, and President Lyndon Johnson signed the Act into law on July 2, 1964;

Whereas the Civil Rights Act of 1964, among other things, prohibited the use of Federal funds in a discriminatory fashion, barred unequal application of voter registration requirements, encouraged the desegregation of public schools and authorized the Attorney General to file suits to force the desegregation, banned discrimination in ho-

tels, motels, restaurants, theaters, and all other places of public accommodation engaged in interstate commerce, and established the Equal Employment Opportunity Commission;

Whereas title VII of the Act not only prohibited discrimination by employers on the basis of race, color, religion, and national origin, but sex as well, thereby recognizing the national problem of sex discrimination in the workplace;

Whereas Congress has amended the Civil Rights Act of 1964 from time to time, with major changes that strengthened the Act;

Whereas the amendments made to the Act by the Equal Employment Opportunity Act of 1972 made changes that, among other things, gave the Equal Employment Opportunity Commission litigation authority, thereby giving the Commission the right to sue nongovernment respondents, made State and local governments subject to title VII of the Civil Rights Act of 1964, made educational institutions subject to title VII of the Act, and made the Federal Government subject to title VII, thereby prohibiting Federal executive agencies from discriminating on the basis of race, color, religion, sex, and national origin;

Whereas the amendments made to the Act and other civil rights legislation amended or added by the Civil Rights Act of 1991 clarified congressional intent regarding the Civil Rights Act of 1964 (in light of several contrary Supreme Court decisions rendered in the late 1980s) and allowed for the recovery of fees and costs in lawsuits in which the plaintiffs prevailed, for jury trials, and for the recovery of compensatory and punitive damages in intentional employment discrimination cases, and also expanded title VII protections to include congressional and high level political appointees; and

Whereas the Civil Rights Act of 1964 is the most comprehensive civil rights legislation in the Nation's history: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This Act may be cited as the "_____ Act of _____". That the Senate—

(1) recognizes and honors the 40th anniversary of congressional passage of the Civil Rights Act of 1964;

(2) applauds all persons whose support and efforts led to passage of the Civil Rights Act of 1964; and

(3) encourages all Americans to recognize and celebrate the important historical milestone of the congressional passage of the Civil Rights Act of 1964.

SENATE RESOLUTION 386—RECOGNIZING THE 40TH ANNIVERSARY OF JUNE 21, 1964, THE DAY CIVIL RIGHTS ORGANIZERS ANDREW GOODMAN, JAMES CHANEY, AND MICHAEL SCHWERNER GAVE THEIR LIVES IN THE STRUGGLE TO GUARANTEE THE RIGHT TO VOTE FOR EVERY CITIZEN OF THE UNITED STATES, AND ENCOURAGING ALL AMERICANS TO OBSERVE THE ANNIVERSARY OF THE DEATHS OF THE 3 MEN BY COMMITTING THEMSELVES TO ENSURING EQUAL RIGHTS, EQUAL OPPORTUNITIES, AND EQUAL JUSTICE FOR ALL PEOPLE

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

S. RES. 386

Whereas Andrew Goodman, James Chaney, and Michael Schwerner were civil rights organizers who participated in the Freedom Summer Project organized by the Council of Federated Organizations to register African Americans in the Deep South to vote;

Whereas on June 21, 1964, after leaving the scene of a firebombed church in Longdale, Mississippi, Andrew Goodman, James Chaney, and Michael Schwerner were murdered by members of the Klu Klux Klan who opposed their efforts to establish equal rights for African Americans;

Whereas June 21, 2004, is the 40th anniversary of the day Andrew Goodman, James Chaney, and Michael Schwerner sacrificed their lives in the fight against racial and social injustice while working to guarantee the right to vote for every citizen of the United States;

Whereas the deaths of the 3 men brought attention to the struggle to guarantee equal rights for African Americans, which led to the passage of monumental civil rights legislation, including the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) and the Voting Rights Act of 1965 (Public Law 89-110, 79 Stat. 437);

Whereas the courage and sacrifice of Andrew Goodman, James Chaney, and Michael Schwerner should encourage all citizens, and especially young people, of the United States to dedicate themselves to the ideals of freedom, justice, and equality; and

Whereas citizens throughout the United States will commemorate the 40th anniversary of the deaths of Andrew Goodman, James Chaney, and Michael Schwerner to honor the contributions they made to the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 40th anniversary of June 21, 1964, the day civil rights organizers Andrew Goodman, James Chaney, and Michael Schwerner gave their lives; and

(2) encourages all people of the United States to observe the anniversary of the deaths of the 3 men by committing themselves to the fundamental principles of freedom, equality, and democracy.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3459. Mr. BINGAMAN proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

SA 3460. Mr. WARNER proposed an amendment to amendment SA 3459 proposed by Mr. BINGAMAN to the bill S. 2400, *supra*.

SA 3461. Mr. WARNER (for Mr. MCCAIN (for himself and Mr. WARNER)) proposed an amendment to amendment SA 3197 proposed by Mr. DAYTON (for himself and Mr. FEINGOLD) to the bill S. 2400, *supra*.

SA 3462. Mr. HARKIN (for himself and Mr. HATCH) proposed an amendment to amendment SA 3225 proposed by Mr. DURBIN to the bill S. 2400, *supra*.

SA 3463. Mr. DURBIN proposed an amendment to amendment SA 3225 proposed by Mr. DURBIN to the bill S. 2400, *supra*.

TEXT OF AMENDMENTS

SA 3459. Mr. BINGAMAN proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year