S. 363

At the request of Mr. INOUYE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 363, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 397

At the request of Mr. CRAIG, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from North Carolina (Mrs. DOLE), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from New Hampshire (Mr. GREGG), the Senator from Nebraska (Mr. HAGEL) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 403

At the request of Mr. ENSIGN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 424

At the request of Mr. BOND, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 450

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 450, a bill to amend the Help America Vote Act of 2002 to require a voter-verified paper record, to improve provisional balloting, to impose additional requirements under such Act, and for other purposes.

S. 453

At the request of Mr. SMITH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 453, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an extension of eligibility for supplemental security income through fiscal year 2008 for refugees, asylees, and certain other humanitarian immigrants.

S. 456

At the request of Mr. SMITH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 456, a bill to amend part A of title IV of the Social Security Act to permit a State to receive credit towards the work requirements under the temporary assistance for needy families program for recipients who are determined by appropriate agencies working in coordination to have a disability and to be in need of specialized activities.

S. 467

At the request of Mr. DODD, the names of the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Ms. STABENOW) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. RES. 33

At the request of Mr. LEVIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

S. RES. 44

At the request of Mr. ALEXANDER, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. OBAMA) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. Res. 44, a resolution celebrating Black History Month.

S. RES. 56

At the request of Mr. SPECTER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 56, a resolution designating the month of March as Deep-Vein Thrombosis Awareness Month, in memory of journalist David Bloom.

S. RES. 59

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 59, a resolution urging the European Union to maintain its arms export embargo on the People's Republic of China.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself and Mr. INOUYE):

S. 477. A bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DORGAN. Mr. President, I rise today to introduce the Tribal Government Amendments to the Homeland Security Act of 2002. Senator INOUYE joins me in sponsoring this measure.

It is well known that tribal governments serve as the primary instruments of law enforcement and emergency response for the more than fifty million acres of land that comprise Indian country.

More than twenty-five Indian tribes have jurisdiction over lands that are either adjacent to international borders or are directly accessible to an international border by boat. These lands consist of over 260 miles of the 7,400 miles of the international borders the United States shares with Canada and Mexico.

But it is not only tribes located on or near international borders or waters that have a role to play in protecting the Nation's strategic assets. Energy resources located on tribal lands make up a significant snare of the United States' energy resources. Tribal governments hold title to 30 percent of the coal resources west of the Mississippi River, 37 percent of potential uranium resources, and three percent of known oil and gas resources in the United States.

There is also extensive infrastructure located on or near tribal lands that is critical to our Nation's security—including dams, hydroelectric facilities, nuclear power generating plants, oil and gas pipelines, transportation corridors of railroads and highway systems, and communications towers.

Like other governments, tribal governments need the necessary resources to develop their capacities to respond to threats of terrorism including access to information and information warning systems, law enforcement data bases, and health alert systems related to the possible use of chemical and biological warfare.

The Homeland Security Act of 2002 provides the authority for the establishment of the Department of Homeland Security and the various duties and responsibilities of the Department and its employees. Many provisions of the Act reference State and local governments, but unfortunately, Indian tribal governments were erroneously included in the definition of ''local government'' in the Act as if tribal governments were political subdivisions of each State.

The Federal government has long recognized that Indian tribes are separate, I distinct sovereigns, with which the United States has a government-to-government relationship. The U.S. Supreme Court has consistently sustained this status and the United States' relationship with the tribal governments. The United States' policy of tribal self-governance and self-determination has proven to be the most successful for Indian tribes.

The measure that I introduce today would treat Indian tribes as the separate political entities that they are, consistent with the Federal policy of tribal self-governance and self-determination. The bill amends the Homeland Security Act of 2002 by removing Indian tribes from the definition of ''local government'' and instead including the terms ''Indian tribe'' and ''tribal government'' in the appropriate

places where the terms ''State'' and ''local governments'' are used.

This bill would also explicitly vest the Secretary of the Department of Homeland Security with the discretionary authority to provide direct funding to Indian tribal governments. Because Indian tribes are already eligible for funding by virtue of their inclusion in the definition of ''local government,'' this bill will not require additional funding nor will it divert any resources away from States or local governments.

It is clear that Indian tribal governments have a vital role to play in the protection of our Nation's security, and I would urge my colleagues to give their favorable consideration to 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. 477

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 ''Tribal Government Amendments to the Homeland Security Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is a government-to-government relationship between the United States and each Indian tribal government;

(2) through statutes and treaties, Congress has recognized the inherent sovereignty of Indian tribal governments and the rights of Native people to self-determination and self-governance;

(3) each Indian tribal government possesses the inherent sovereign authority—

(A)(i) to establish its own form of government;

(ii) to adopt a constitution or other organic governing documents; and

(iii) to establish a tribal judicial system; and

(B) to provide for the health and safety of those who reside on tribal lands, including the provision of law enforcement services on lands under the jurisdiction of the tribal government;

(4) tribal emergency response providers, such as tribal emergency public safety officers, law enforcement officers, emergency response personnel, emergency medical personnel and facilities (including tribal and Indian Health Service emergency facilities), and related personnel, agencies, and authorities—

(A) play a crucial role in providing for the health and safety of those who reside on tribal lands; and

(B) are necessary components of a comprehensive system to secure the homeland of the United States;

(5) there are more than 25 Indian tribes that have primary jurisdiction over—

(A) lands within the United States that is adjacent to the Canadian or Mexican border; or

(B) waters of the United States that provide direct access by boat to lands within the United States;

(6) the border lands under the jurisdiction of Indian tribal governments comprises more than 260 miles of the approximately 7,400 miles of international border of the United States;

(7) numerous Indian tribal governments exercise criminal, civil, and regulatory jurisdiction over lands on which dams, oil and gas deposits, nuclear or electrical power plants, water and sanitation systems, or timber or other natural resources are located; and

(8) the involvement of tribal governments in the protection of the homeland of the United States is essential to the comprehensive maintenance of the homeland security of the United States.

(b) PURPOSES.—The purposes of this Act are to ensure that—

(1) the Department of Homeland Security consults with, involves, coordinates with, and includes Indian tribal governments in carrying out the mission of the Department under the Homeland Security Act of 2002 (Public Law 107–296); and

(2) Indian tribal governments participate fully in the protection of the homeland of the United States.

SEC. 3. TABLE OF CONTENTS; DEFINITIONS.

(a) TABLE OF CONTENTS.—The table of contents of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by striking the item relating to section 801 and inserting the following:

''Sec. 801. Office of State, Tribal, and Local Government Coordination.''.

(b) DEFINITIONS.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended—

(1) in paragraph (6), by inserting ''tribal,'' after ''State,'';

(2) by redesignating paragraphs (9), (10), (11), (12), (13), (14), (15), and (16) as paragraphs (10), (11), (12), (13), (14), (15), (16), and (19), respectively;

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

''(9) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''; and

(4) by inserting after paragraph (16) (as redesignated by paragraph (2)) the following:

''(17) TRIBAL COLLEGE OR UNIVERSITY.—The term 'tribal college or university' has the meaning given the term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

''(18) TRIBAL GOVERNMENT.—The term 'tribal government' means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.''.

SEC. 4. DEPARTMENT OF HOMELAND SECURITY.

(a) SECRETARY; FUNCTIONS.—Section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112) (as amended by section 7402 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458)) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''Office of State and Local Coordination'' and inserting ''Office of State, Tribal, and Local Government Coordination and Preparedness''; and

(B) in paragraphs (1), (2), and (3), by inserting '', tribal,'' after ''State'' each place it appears; and

(2) in subsection (f)—

(A) in paragraph (8), by inserting ''tribal,'' after ''State,''; and

(B) in paragraph (10), by striking ''Office of State and Local Government Coordination and Preparedness'' and inserting ''Office of State, Tribal, and Local Government Coordination and Preparedness''.

(b) CONFORMING AMENDMENT.—Section 7405 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 112 note; Public Law 108–458) is amended by striking ''Office of State and Local Government Coordination and Preparedness'' and inserting ''Office of State, Tribal, and Local Government Coordination and Preparedness''.

SEC. 5. INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(1) in paragraphs (1), (3), (6), (7)(B), (8), (9), (11), (13), and (16), by inserting '', tribal,'' after ''State'' each place it appears; and

(2) in paragraph (17), by inserting ''tribal,'' after ''State,''.

(b) ACCESS TO INFORMATION.—Section 202(d)(2) of the Homeland Security Act of 2002 (6 U.S.C. 122(d)(2)) is amended by inserting '', tribal,'' after ''State''.

(c) PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.—Section 214 of the Homeland Security Act of 2002 (6 U.S.C. 133) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (D)(ii)(II), by striking ''General Accounting Office.'' and inserting ''Government Accountability Office;''; and

(B) in subparagraph (E), by inserting '', tribal,'' after ''State'' each place it appears;

(2) in subsection (c), by inserting ''tribal,'' after ''State,''; and

(3) in subsection (e)(2)(D), by inserting '', tribal,'' after ''State''.

(d) ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.—Section 223(1) of the Homeland Security Act of 2002 (6 U.S.C. 143(1)) is amended by inserting '', tribal,'' after ''State''.

(e) MISSION OF OFFICE; DUTIES.—Section 232 of the Homeland Security Act of 2002 (6 U.S.C. 162) is amended—

(1) in subsection (a)(2), by inserting ''**tribal**,'' after ''**State**,'';

(2) in subsection (b)—

(A) in paragraphs (2) and (3), by inserting ''tribal,'' after ''State,'' each place it appears;

(B) in paragraph (6)—

(i) in the matter preceding subparagraph (A), by inserting ''tribal,'' after ''State,''; and

(ii) in subparagraph (H), by inserting '', tribal,'' after ''State''; and

(C) in paragraphs (9), (11), and (14), by inserting '', tribal,'' after ''State'' each place it appears; and

(3) in subsection (g)(1)(A), by inserting ''tribal,'' after ''State,''.

(f) NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.—Section 235(d) of the Homeland Security Act of 2002 (6 U.S.C. 165(d)) is amended by inserting ''tribal,'' after ''State,''.

SEC. 6. SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY.

(a) RESPONSIBILITIES AND AUTHORITIES OF THE UNDERSECRETARY FOR SCIENCE AND TECHNOLOGY.—Section 302(6) of the Homeland Security Act of 2002 (6 U.S.C. 182(6)) is amended by inserting ''tribal,'' after ''State,''.

(b) CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.—Section 304(a) of the Homeland Security Act of 2002 (6 U.S.C. 184(a)) is amended by inserting ''and the Indian Health Service'' after ''Public Health Service''.

(c) CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING, AND EVALUATION.—Section 308(b) of the Homeland Security Act of 2002 (6 U.S.C. 188(b)) is amended—

(1) in paragraph (1)(A), by striking ''colleges, universities,'' and inserting ''colleges and universities (including tribal colleges and universities),''; and

(2) in paragraph (2)(B), by inserting ''(including tribal colleges or universities)'' after ''universities''.

(d) UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.—Section 309(d) of the Homeland Security Act of 2002 (6 U.S.C. 189(d)) is amended by inserting '', tribal,'' after ''State''.

(e) HOMELAND SECURITY INSTITUTE.—Section 312(d) of the Homeland Security Act of 2002 (6 U.S.C. 192(d)) is amended by inserting ''tribal colleges and universities,'' after ''education,''.

(f) TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) in paragraphs (1) and (4) of subsection (b), by inserting ''tribal,'' after ''State,'' each place it appears; and

(2) in subsection (c)(1), by inserting '', tribal,'' after ''State''.

SEC. 7. DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY.

(a) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430(c)(5) of the Homeland Security Act of 2002 (6 U.S.C. 238(c)(5)) is amended by inserting '', tribal,'' after ''State''.

(b) REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.—Section 445(b) of the Homeland Security Act of 2002 (6 U.S.C. 255(b)) is amended by inserting '', tribal,'' after ''heads of State''.

SEC. 8. EMERGENCY PREPAREDNESS AND RESPONSE.

(a) RESPONSIBILITIES.—Section 502(5) of the Homeland Security Act of 2002 (6 U.S.C. 312(5)) is amended by inserting ''tribal,'' after ''State,''.

(b) CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.—Section 505(a) of the Homeland Security Act of 2002 (6 U.S.C. 315(a)) is amended—

(1) by inserting ''tribal,'' after ''State,''; and

(2) by inserting ''and the Indian Health Service'' after ''Public Health Service''.

SEC. 9. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

Section 601(c)(9)(B) of the Homeland Security Act of 2002 (6 U.S.C. 331(c)(9)(B)) is amended by inserting ''tribal,'' after ''State,''.

SEC. 10. COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS.

(a) OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 361) is amended—

(1) in the section heading, by inserting ''**, TRIBAL,**'' after ''**STATE**'';

(2) in subsection (a)—

(A) by inserting '', Tribal,'' after ''Office for State''; and

(B) by inserting '', tribal,'' after ''relationships with State''; and

(3) in subsection (b), by inserting '', tribal,'' after ''State'' each place it appears.

(b) DEFINITIONS FOR SUPPORT ANTI-TERRORISM BY FOSTERING EFFECTIVE TECHNOLOGIES ACT.—Section 865(6) of the Homeland Security Act of 2002 (6 U.S.C. 444(6)) is amended by inserting '', tribal,'' after ''State''.

(c) REGULATORY AUTHORITY AND PREEMPTION.—Section 877(b) of the Homeland Security Act of 2002 (6 U.S.C. 457(b)) is amended—

(1) in the subsection heading, by inserting '', TRIBAL,'' after ''STATE''; and

(2) by inserting '', tribal,'' after ''State'' each place it appears.

(d) INFORMATION SHARING.—Section 891 of the Homeland Security Act of 2002 (6 U.S.C. 481) is amended—

(1) in subsection (b)—

(A) in paragraphs (2), (4), (5), (7), (8), and (9), by inserting '', tribal,'' after ''State'' each place it appears;

(B) in paragraph (6)—

(i) by inserting '', tribal,'' after ''certain State''; and

(ii) by inserting ''tribal,'' after ''State,''; and

(C) in paragraphs (10) and (11), by inserting ''tribal,'' after ''State,'' each place it appears; and

(2) in subsection (c), by inserting ''tribal,'' after ''State,''.

(e) FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.—Section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482) is amended—

(1) in subsection (a)(1)(A), by inserting '', tribal,'' after ''State'';

(2) in paragraphs (1), (2)(D), and (6) of subsection (b), by inserting '', tribal,'' after ''State'' each place it appears;

(3) in subsection (c)—

(A) in the subsection heading, by inserting '', TRIBAL,'' after ''STATE''; and

(B) by inserting '', tribal,'' after ''State'' each place it appears;

(4) in subsection (e), by inserting '', tribal,'' after ''State'' each place it appears;

(5) in subsection (f)—

(A) in paragraph (1), by inserting ''tribal,'' after ''State,''; and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by inserting '', tribal,'' after ''State'';

(ii) in subparagraph (A), by inserting ''tribally or'' after ''other'';

(iii) in subparagraph (B), by inserting '', tribal,'' after ''State''; and

(iv) in subparagraph (D), by inserting ''tribal,'' after ''State,''; and

(6) in subsection (g), by inserting '', tribal,'' after ''State''.

(f) REPORT.—Section 893(a) of the Homeland Security Act of 2002 (6 U.S.C. 483(a)) is amended in the second sentence by inserting ''tribal,'' after ''State,''.

SEC. 11. DEPARTMENT OF JUSTICE DIVISIONS.

Section 1114(b) of the Homeland Security Act of 2002 (6 U.S.C. 532(b)) is amended by inserting ''tribal,'' after ''State,''.

SEC. 12. AMENDMENTS TO OTHER LAWS.

(a) CYBER SECURITY ENHANCEMENT ACT OF 2002.—

(1) EMERGENCY DISCLOSURE EXCEPTION.—Section 2702(b)(8) of title 18, United States Code, is amended by inserting ''tribal,'' after ''State,''.

(2) PROTECTING PRIVACY.—Section 2701(b)(1) of title 18, United States Code, is amended by inserting ''or Indian tribe'' after ''or any State''.

(b) NATIONAL INSTITUTE OF JUSTICE.—Section 202(c)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722(c)(11)) is amended by inserting ''tribal,'' after ''State,''.

(c) HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.—Section 1105(a)(33)(A)(iii) of title 31, United States Code, is amended by inserting '', tribal,'' after ''State''.

(d) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.—Section 2517(8) of title 18, United States Code, is amended by inserting ''tribal,'' after ''State,'' each place it appears.

(e) FOREIGN INTELLIGENCE INFORMATION.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (50 U.S.C. 403–5d) is amended by inserting ''tribal,'' after ''State,'' each place it appears.

(f) FOREIGN INTELLIGENCE SURVEILLANCE.—

(1) INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.—Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(k)(1)) is amended by inserting ''or Indian tribe'' after ''subdivision)''.

(2) INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.—Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825(k)(1)) is amended by inserting ''or Indian tribe'' after ''subdivision)''.

(g) TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.—Section 1315 of title 40, United States Code (as amended by section 1706(b)(1) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2316)), is amended—

(1) in subsection (d)(3), by inserting ''tribal,'' after ''State,''; and

(2) in subsection (e), by inserting '', tribal,'' after ''State'' each place it appears.

SEC. 13. AUTHORIZATION FOR DIRECT FUNDING.

The Secretary of Homeland Security may provide any funds made available under the Homeland Security Act of 2002 (Public Law 107–296) directly to any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

By Mr. LEAHY:

S. 478. A bill to designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia as the ''William B. Bryant Annex''; to the Committee on Environment and Public Works.

Mr. LEAHY. Mr. President, I am pleased to call attention to the extraordinary public service of Judge William B. Bryant. Last July, I introduced S. 2619, a bill that would have designated the new annex to the E. Barrett Prettyman United States Courthouse in Washington, D.C., the ''William B. Bryant Annex.'' It was the Senate companion bill to legislation introduced by Congresswoman ELEANOR HOLMES NORTON of the District of Columbia.

While the House bill passed by voice vote, the Senate bill was stalled by objection. There was concern that a courthouse annex be named for a judge still serving. This objection was adhered to despite the numerous exceptions to such a rule, including another exception enacted last year.

It would have been worthy of celebration this last month, during Black History Month, if we could have held such a naming ceremony involving Judge Bryant. Others prevented that from taking place. I believe it important that we continue every month to recognize the extraordinary contributions of African Americans. Congresswoman NORTON has been willing to seek to accommodate those Senators who objected by revising this bill to delay the effective date of the naming until after Judge Bryant steps down from the Court. It is sadly ironic that Judge Bryant's continuing historic service is held against honoring him. He continues to perform duties as a senior

Federal judge at the age of 93. I commend Congresswoman NORTON for her efforts and determination. I hope that this change will remove the final impediment and allow the District of Columbia and the Nation to honor Judge Bryant before his 94th birthday this September.

The value of Judge Bryant's service has been recognized by his colleagues. Judge Bryant and his lifelong service to the law was celebrated in a September 16, 2004 Washington Post article. The article details a life spent dedicated to public service.

Judge Bryant began his legal career with the belief that lawyers could make a difference in eliminating the widespread racial segregation in the United States. He became a criminal defense lawyer in 1948, taking on many pro bono cases and was soon recognized by the U.S. Attorney's office for his skills as a defense attorney. The U.S. Attorney's office hired him in 1951 and he became the first African American to practice in Federal court here in the District.

Judge Bryant was nominated by President Johnson to the Federal bench in 1965 and became the first African American Chief Judge for the United States District Court in D.C. Forty years later, Judge Bryant still works at the courthouse four days a week and the Washington Post reports that he handled more criminal trials than any other senior judge on the court last year. Judge Bryant said in an interview with the Post: ''I feel like I'm part of the woodwork. I have to think hard to think of a time when I wasn't in this courthouse.''

The Washington Post article mentions that E. Barrett Prettyman, Jr., the son of the judge for whom the Federal courthouse is named, praised the recommendation that the annex be named after Judge Bryant. He said that his father ''admired Judge Bryant tremendously'' and would have wanted the annex to be named after him.

Before my introduction of this bill last year, Chief Judge Thomas F. Hogan of the United States District Court for the District of Columbia, requested for himself and all the other judges on the court that the newly constructed annex be named after Judge Bryant. They appreciate the historic significance of Judge Bryant's service.

I urge the Senate this year to move ahead with this important commendation of Judge Bryant's lifetime of service and dedication to the principles of the Constitution and the law.

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

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

[From the Washington Post, Sept. 16, 2004]

A LIFETIME OF FAITH IN THE LAW; AT 93, SENIOR JUDGE WILLIAM BRYANT STILL WINS PLAUDITS FOR DEDICATION TO JUSTICE

(By Carol Leonnig)

A few days after the new U.S. District Courthouse opened on Constitution Avenue in the fall of 1952, Bill Bryant walked in to start work as a recently hired federal prosecutor.

More than a half-century has passed, and Bryant's life remains centered on that stately granite building in the shadow of the U.S. Capitol. It's in those halls that he became a groundbreaking criminal defense attorney, a federal judge, and then the court's chief judge—the first African American in that position.

Today, at the age of 93, U.S. District Court Senior Judge William Bryant still drives himself to work at the courthouse four days a week and pushes his walker to his courtroom.

At a recent birthday party for Bryant hosted by Vernon Jordan, fellow Senior U.S. District Court Judge Louis Oberdorfer remarked that there were ''only two people in the world who really understood the Constitution'' and how it touched the lives of real people.

''That's Hugo Black and Bill Bryant,'' said Oberdorfer. He had clerked for Justice Hugo L. Black, who retired as an associate justice in 1971 after serving on the Supreme Court for 34 years.

To honor Bryant's life's work, his fellow judges this past spring unanimously recommended that a nearly completed courthouse annex be named for him. The $110 million, 351,000–square-foot addition will add nine state-of-the-art courtrooms and judges' offices to the courthouse and is designed to meet the court's expansion needs for the next 30 years. It is slated to open next spring.

In urging that the building be named for Bryant, his supporters cite his devotion to the Constitution and his belief that the law will produce a just result.

During a rare interview in his sixth-floor office in the federal courthouse, Bryant reached out for a pocket version of the Constitution covered in torn green plastic lying on the top of his desk. Holding it aloft in his right hand, he told stories of his struggling former clients and made legal phrases—''due process'' and ''equal protection''—seem like life-saving staples.

Though he needs his law clerk's arm to get up the steps to the bench, he is a fairly busy senior jurist. He handled more criminal trials than any other senior judge last year and still surprises new lawyers with his sharp retorts.

''I feel like I'm part of the woodwork,'' Bryant said. ''I have to think hard to think of a time when I wasn't in this courthouse.''

He started down his career path inspired by a Howard University law professor who believed that lawyers could make a difference in that time of racial segregation and discrimination. Bryant said he remains convinced today that lawyers can stop injustice whenever it arises.

''Without lawyers, this is just a piece of paper,'' Judge Bryant said, gesturing with the well-worn Constitution. ''If it weren't for lawyers, I'd still be three-fifths of a man. If it weren't for lawyers, we'd still have signs directing people this way and that, based on the color of their skin. If it weren't for lawyers, you still wouldn't be able to vote.

''The most important professions are lawyer and teacher, in my opinion,'' he said.

Some lawyers complain that Bryant is so rooted in his criminal defense training that he shows some distrust of the prosecution. And his practice of presiding over trials, but asking other judges to sentence the people convicted, has spurred some curiosity. He won't elaborate on the reason, but his friends say he found the new federal sentencing guidelines inflexible and harsh.

A 1993 study found Bryant was reversed 17 percent of the time by appellate judges—the average reversal rate for the trial court.

Chief Judge Thomas F. Hogan presented the proposal to name the annex after Bryant to Del. Eleanor Holmes Norton and Sen. Patrick Leahy (D-Vt.) earlier this year, and they are now trying to get Congress to approve the naming this fall. One member, Sen. James M. Inhofe (R-Okla.), has tried to block it, with his staff pointing to a D.C. policy that buildings not be named after living people.

Norton said numerous courts around the country have been named in honor of living judges, and she said she looks forward to meeting with Inhofe in person to convince him of the wisdom of naming this building, designed by renowned architect Michael Graves, after a barrier-breaking judge.

''This is no ordinary naming,'' she said. ''This is a truly great African American judge whose accomplishments are singular. First African American assistant U.S. attorney. First African American chief judge.''

E. Barrett Prettyman Jr., the son of the jurist for whom the federal courthouse in Washington is named, also applauds the proposed annex naming. He said his father ''admired Judge Bryant tremendously'' and would have endorsed it, too.

''Whenever it's discussed, people brighten right up and think it's a great idea,'' said Prettyman, himself a former president of the D.C. Bar Association. ''I'm sorry it's hit this snag. . . . If you were going to have an exception, my personal opinion is you could not have a better exception than for Judge Bryant.''

William Benson Bryant is hailed as a true product of Washington. Though he was born in a rural town in Alabama, he moved to the city soon after turning 1. His grandfather, fleeing a white lynch mob, relocated the extended family here, including Bryant's father, a railroad porter, and his mother, a housewife. They all made their first home on Benning Road, which was then a dirt path hugging the eastern shore of the Anacostia River.

Bryant attended D.C. public schools when the city's black children were taught in separate and grossly substandard facilities. Still he flourished, studying politics at the city's premier black high school, Dunbar, then going on to Howard University. While working at night as an elevator operator, he studied law and met his future wife, Astaire. They were married for 60 years, until her death in 1997.

He and his law classmates—the future civil rights movement's intellectual warriors—worked at their dreams in the basement office of their law professor, Charles Houston. Houston promised the group, which included the future Supreme Court Justice Thurgood Marshall and appellate judge Spottswood Robinson, that lawyers armed with quick minds and the Constitution could end segregated schools and unjust convictions of innocent black men.

''I kind of got fascinated by that,'' he said. ''We all did.''

But when Bryant graduated first in his class from Howard's law school, there were no jobs for a black lawyer. He became a chief research assistant to Ralph Bunche, an African American diplomat who later was awarded the Nobel Peace Prize, on a landmark study of American race relations; he then fought in World War II and was discharged from the Army as a lieutenant colonel in 1947.

His first step was to take the bar exam, then hang out a shingle as a criminal defense lawyer in 1948. His skills soon drew the attention of prosecutors in the U.S. Attorney's Office, who liked him even though they kept losing cases to him, and they recommended that their boss hire him. During a job interview, Bryant made a request of George Fay,

then the U.S. attorney: ''Mr. Fay, if I cut the mustard in municipal court, can I go over to the big court like the other guys?''

No black prosecutor had ever practiced in the federal court—or ''big court,'' as it was called—but Fay agreed. Bryant signed on in 1951 and was handling grand jury indictments in the new federal courthouse the next year.

Bryant vividly recalls a case from that time involving an apartment building caretaker who was on trial on charges of raping the babysitter of one tenant's family.

''I went for him as hard as I could,'' Bryant said, squaring his shoulders. ''I didn't like him, and I didn't like what he did to that girl.''

So the young prosecutor sought the death penalty, an option then for first-degree murder and rape. He left the courtroom after closing arguments ''feeling pretty good about my case'' and awaited the jury's verdict in his third-floor court office. But when a marshal later called out, ''Bryant, jury's back,'' the judge said, ''I broke out in a sweat.''

He peeked anxiously into the court, saw the jury foreman mouth only the word ''guilty.'' Bryant learned seconds later that the jurors had spared the man's life.

''I was so relieved,'' he said. ''When you're young, you don't know anything. . . . Now I think, murder is murder, no matter who is doing it.''

He left the prosecutor's office in 1954 and returned to criminal defense with fellow classmate William Gardner in an F Street law office later bulldozed for the MCI Center. They were partners in Houston, Bryant and Gardner, a legendarily powerful African American firm. Ten judges would eventually come from its ranks.

In those days, Bryant chuckled, he didn't feel so powerful. Judges who remembered his prosecution work kept appointing him to represent defendants who had no money. That was before the 1963 Supreme Court's Gideon decision requiring that indigent defendants be represented by a lawyer—at public expense, if necessary.

''The judge would say, 'Mr. So and So, you say you don't have any money to hire an attorney?' '' Bryant recalled. '' 'Well, then, the court appoints Mr. Bryant to represent you.' ''

Some paid $25 or $50. Some paid nothing.

''There were weeks we paid the help and split the little bit left over for our groceries,'' he said.

Bill Schultz, Bryant's former law clerk, said Bryant took the cases ''out of this sense of obligation to the court and legal system. He was very aware of discrimination, and he always fought for the criminal defendants.''

At the time, blacks were barred from the D.C. Bar Association and its law library. Bryant went in anyway, and the black librarian let him.

One of his pro bono clients was Andrew Roosevelt Mallory, a 19-year-old who confessed to a rape after an eight-hour interrogation in a police station. Mallory was convicted and sent to death row. Defending Mallory's rights, a case Bryant took all the way to the Supreme Court in 1957, made him both nervous and famous.

He said he fretted constantly about his client facing the electric chair during the two years the case dragged on. ''You talk about worried,'' he said. ''It's something I can't forget.''

But the Supreme Court agreed with Bryant that a man accused of a crime is entitled to be taken promptly before a magistrate to hear the charges against him. The court overturned Mallory's conviction and handed down a landmark decision on defendants' rights.

U.S. District Judge Paul Friedman, a longtime fan of Bryant's, said Bryant's legal talents are on display every day in his courtroom, but lawyers are still taken aback by his factual resolve and clear logic when hearing an audiotape recording of his Supreme Court argument in the Mallory case.

''He's clearly a terrific lawyer, but he's mostly a terrific human being,'' Friedman said. ''He sees the best in people, and he really cares about what happens to people.''

Bryant remembers that when President Lyndon B. Johnson nominated him to be a judge, he felt elated, confident he had earned his opportunity. But Bryant said a different feeling came over him the day he donned the robes.

''I was sworn in in the morning that day, and Oliver Gasch was sworn in that afternoon,'' Bryant recalled. ''I told Oliver, 'You know, I've been a lawyer for many years, but putting on this robe, I don't feel so sure. This is a serious responsibility. ' ''

Gasch smiled: ''Bill, I don't think it's going to be that hard for you. You know right from wrong.''

Bryant oversaw some famous cases, and he freely shared his thoughts when he thought something was wrong.

After presiding over the 1981 trial of Richard Kelly, a Republican congressman caught on videotape taking money from federal agents in a sting operation, Bryant complained that the FBI had set an ''outrageous'' trap for the Florida representative by stuffing cash in his pocket after he'd refused the bribe several times. He set aside Kelly's conviction.

''The investigation . . . has an odor to it that is absolutely repulsive,'' Bryant said then. ''It stinks.''

In handling the longest-running case in the court's history, a 25-year-old case about inhumane and filthy conditions in the D.C. jail, the judge chastised city leaders in 1995. He said he had been listening to their broken promises to fix the problems ''since the Big Dipper was a thimble.''

In weighing the case of a group of black farmers with similar discrimination complaints against the U.S. Department of Agriculture in 2000, Bryant warned a government lawyer that his argument against a class-action discrimination suit wasn't working: ''Either you're dense or I'm dense,'' he said.

Schultz said the judge simply trusted the combination of facts and the law.

''He always said, 'Don't fight the facts,' '' Schultz said. ''He thought most of the time the law would end up in the right place.''

Bryant acknowledges it's hard sometimes to see lawyers struggle to make their arguments when they have the law and the facts on their side.

''A judge has a stationary gun, and he's looking through the sights,'' he said. ''Unless the lawyer brings the case into the bull's-eye, the judge can't pull the trigger. Good lawyers bring the case into the sights.''

Bryant said he was preceded by many great lawyers, which is why the new plan to put his name on a piece of the courthouse gives him conflicting feelings.

''I was flattered, but I thought they shouldn't have done it,'' Bryant said. ''There are so many people who were really giants. I stand on their shoulders.''

S. 478

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

SECTION 1. DESIGNATION.

The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at Constitution Avenue Northwest in the District of Columbia shall be known and designated as the ''William B. Bryant Annex''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in section 1 shall be deemed to be a reference to the ''William B. Bryant Annex''.

SEC. 3. EFFECTIVE DATE.

This Act takes effect on the date on which William B. Bryant, a senior judge for the United States District Court for the District of Columbia, relinquishes or otherwise ceases to hold a position as a judge under article III of the Constitution.

By Ms. CANTWELL:

S. 479. A bill to amend title 4 of the United States Code to prohibit a State from imposing a discriminatory tax on income earned within such State by nonresidents of such State; to the Committee on Finance.

Ms. CANTWELL. Mr. President, today I am introducing legislation to correct a tax injustice affecting my home State of Washington, and all States that do not have a State income tax. My bill, the Nonresident Income Tax Freedom Act, would prohibit States from imposing income taxes on individuals that are not residents of that State. I hear about this issue in the areas of my State that border Oregon and Idaho, both States that have income taxes. In fact, wherever I go in Vancouver and throughout Clark County, I hear time and again from constituents about the unfairness of living in Washington State—a State that does not have an income tax—and working in Oregon—a State that does have an income tax and being taxed on their income earned in Oregon.

According to the Oregon Department of Revenue, in 2002, there were 51,991 Clark County residents working in Oregon. Taxed on their income, these nearly 52,000 individuals remitted $104 million to Oregon that year.

Representing all of Washington State in Congress, it is not lost on me that an additional 30,181 Washington State residents outside of Clark County were also employed in Oregon in 2002, and these 30,000 paid the State of Oregon $49.8 million.

Furthermore, there are Washington State residents working in Idaho. In 2002, 19,467 of them owed the State of Idaho $18.9 million in income taxes.

While I would like to hope that most Washingtonians could find employment in Washington State, and I am grateful for the job opportunities presented to Washingtonians in Oregon, I find it antithetical to notions of lifting up the economy of Washington State to have the incomes of Washington State residents taxed in Oregon.

We have historical roots in this country related to the notion of no taxation without representation. Washington residents being taxed in Oregon is contrary to this whole premise—a premise upon which American independence rested over 200 years ago.

Good tax policy rests on the notion that individual's contribution to the

government through taxes brings benefits to those individuals—good schools, navigable roads, safe communities, clean water, and other services.

With incomes taxed in Oregon, Washington residents receive very little benefit for the contributions made to the State of Oregon. Granted, Oregon maintains the infrastructure used by Washingtonians to get to work; but there are a number of benefits that Washington residents never realize from the taxes they pay. For example, Washington State residents employed in Oregon and paying Oregon income taxes do not receive in-State tuition rates for college.

In addition, Washington State residents employed in Oregon and paying Oregon income taxes do not receive the benefit of paying less for fishing licenses. Examples of what this can mean: for 2005, an angling license for Oregonians is $24.75 for the year; for a Washingtonian who pays income taxes in Oregon, his/her angling license is $61.50—a 248-percent increase. The discrepancy in Idaho is even greater. For 2005, a combined hunting/fishing license for an Idaho resident is $30.50 and for a Washingtonian who is paying Idaho income taxes would be charged $181.50 for the same license—a 595-percent increase.

And first and foremost, Washington residents employed in Oregon and paying income taxes are not afforded voting rights in Oregon, thereby being taxed without representation.

The power for Congress to enact legislation to prohibit one State from assessing taxes on nonresidents working within that State exists in the Commerce Clause of the U.S. Constitution, Article I, Section 8, Clause 3. And Congress has exercised this authority in the past.

The Soldiers' and Sailors' Civil Relief Act of 1940 prohibits States from taxing the compensation of nonresident military personnel who are stationed in that State.

In July of 1977, Congress passed, and President Carter signed, legislation prohibiting the States of Virginia and Maryland, or the District of Columbia, from imposing an income tax against Members of Congress who maintain homes in those jurisdictions.

Additionally, with the Amtrak Reauthorization and Improvement Act of 1990, Congress granted tax immunity to employees of interstate railway, aviation, and motor carriers from paying State income taxes to any State other than an employee's State of residence.

It is time for Congress, once again, to utilize its authority under the Commerce Clause to prohibit the imposition of income taxes by States on nonresidents. It is my view that interstate trade in labor is important commerce that deserves to be treated fairly.

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. 479

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 ''Nonresident Income Tax Freedom Act of 2005''.

SEC. 2. PROHIBITION ON IMPOSITION OF INCOME TAXES BY STATES ON NONRESIDENTS.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

''§ 127. Prohibition on imposition of income taxes by states on nonresidents

''Except to the extent otherwise provided in any voluntary compact between or among States, a State or political subdivision thereof may not impose a tax on income earned within such State or political subdivision by nonresidents of such State.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following new item:

''127. Prohibition on imposition of income taxes by States on nonresidents.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 482. 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. Mr. 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 in 2003. 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.

By Mr. CORNYN:

S. 483. A bill to strengthen religious liberty and combat government hostility to expressions of faith, by extending the research of The Equal Access Act to elementary schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORNYN. Mr. President, I rise to introduce legislation to expand the scope of the Equal Access Act, which Congress enacted in 1984 to guarantee equal access for religious and other organizations to the facilities of public secondary schools that receive Federal funding.

Tomorrow morning, the Supreme Court of the United States will hear oral argument in two cases involving the right of State and local governments to erect a public display of the Ten Commandments. One of those cases, Van Orden v. Perry, involves the public display at the State capitol grounds of my home State, the great State of Texas. The other case, McCreary County v. ACLU, arises out of the State of Kentucky.

These two cases are reminiscent of the Supreme Court's consideration last year of the Pledge of Allegiance—which contains the words ''under god''—in the matter of Elk Grove Unified School District v., Newdow. The

Court rejected the challenge to the Pledge of Allegiance in that case, but strictly on procedural grounds. So the Pledge of Allegiance, like the Ten Commandments, remains under attack and under danger of forced removal from our public square by judicial fiat.

We examined these issues at a hearing of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights I chaired on June 8, 2004. The hearing was entitled ''Beyond the Pledge of Allegiance: Hostility to Religious Expression in the Public Square.''

That hearing was important, because it reminded us of an even broader, more systemic problem caused by the Supreme Court's previous rulings, than just these disturbing attacks on the Pledge of Allegiance and the Ten Commandments—an unjustifiable hostility to religious expression in public squares across America.

Just as there is bipartisan agreement on the constitutionality of the Pledge of Allegiance, so should there be bipartisan agreement that government should never be hostile to expressions of faith. As President Ronald Reagan stated in 1983: ''When our founding Fathers passed the First Amendment, they sought to protect churches from government interference. They never intended to construct a wall of hostility between government and the concept of religious belief itself.'' And as President Clinton noted in 1995: ''Americans feel that instead of celebrating their love for God in public, they're being forced to hide their faith behind closed doors. That's wrong. Americans should never have to hide their faith. but some Americans have been denied the right to express their religion and that has to stop. That has happened and it has to stop.''

At the hearing, we heard from citizen witnesses and legal experts alike, who recounted example after example after example of government discrimination against religious expression generally—including both discrimination against religious versus non-religious expression in government speech, as well as discrimination against purely private expressions of faith. Just consider this sample of incidents throughout the Nation—incidents of hostility to religious expression in the public square:

A 12-year-old elementary school student was reprimanded by a public school in St. Louis, MO for quietly saying a prayer before lunch in the school cafeteria, according to a federal lawsuit. The case was settled after the St. Louis School Board announced a new policy protecting the religious expression rights of students. St. Louis Post-dispatch, July 11, 1996.

A second grade school girl in Wisconsin was forbidden from distributing valentines during a Valentine's Day Exchange because her valentines happened to contain religious themes. After a Federal lawsuit was filed, the school district settled the suit by publishing an apology to the student in the Milwaukee Journal Sentinal and issuing a new policy protecting the religious freedoms of its students. Capital Times, Madison, August 29, 2001.

A kindergartener in Dayton, OH was forbidden by her public school teacher from distributing bags of jellybeans with an attached prayer to her classmates, according to a Federal lawsuit. Associated Press, February 8, 2004.

Public high school students in Massachusetts started a Bible club and tried to hand out candy canes with a Biblical passage attached. The school suspended the students for distributing the candy canes. A federal district court issued a temporary injunction against the school. Westfield High Sch. L.I.F.E. Club v. City of Westfield, 249 F. Supp. 2d 98 D. Mass. 2003.

A public school sixth grader in Boulder, CO tried to complete her book report assignment by presenting the Bible, but was forbidden from doing so by her teacher. She was also forbidden from bringing the Bible to school. Only after a lawsuit was threatened did the school eventually back down. Denver Post, December 13, 2002.

According to a Federal lawsuit, a public school teacher at Lynn Lucas Middle School in Houston, TX, punished two sisters for carrying Bibles, confiscated and threw the Bibles into the trash, and threatened to call Child Protective Services, while another teacher forbade a third student from reading the Bible during free reading time and forced him to remove a Ten Commandments book cover from another book. The suit was ultimately resolved out of court. Houston Chronicle, May 24, 2000.

As explained in her Senate testimony, Nashala Hearn, a 12-year-old girl in Muskogee, OK, was suspended for three days by her public middle school for wearing a hijab, a headscarf required by her Islamic faith. The school eventually backed down after intervention by the Justice Department. Senate Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights, June 8, 2004.

A Texas school district refused to hire a public school teacher for the position of assistant principal, because her children attended a private Christian school, in violation of the district's policy that the children of all principals and administrators attend public school. The district's policy was upheld by the Federal district court but subsequently rejected on appeal. Barrow V. Greenville Ind. Sch. Dist., 332 F.3d 844 5th Cir. 2003.

A Vietnam veteran and member of an honor guard at a New Jersey veterans' cemetery was fired for saying ''God bless you and this family'' to the family of a deceased veteran, even though the family had consented to the blessing beforehand. Winston-Salem Journal, April 26, 2003.

A public library employee in Logan County, KY, was fired for refusing to remove her cross-pendant necklace while at work. A Federal district court subsequently ruled that the library violated her constitutional rights. American Libraries, October 1, 2003.

According to another federal lawsuit, an employee of the Minnesota State Department of Revenue is barred from parking his car in the employee parking lot, because his car displays religious messages such as ''God is a loving and caring God.'' Other employees are allowed to display nonreligious messages on their cars. The employee is similarly barred from displaying religious messages in his office cubicle, even though other employees are allowed to display nonreligious messages in their cubicles. Star-Tribune (Minneapolis), July 2, 2004.

As he explained in his Senate testimony, Barney Clark and other members of the Balch Springs Senior Center in Balch Springs, Texas, were forbidden from singing religious songs and appointing someone to bless their food at the city-owned senior center. The city eventually backed down, but only after a federal lawsuit and intervention by the Justice Department. Senate Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights, June 8, 2004.

I'm grateful to the Liberty Legal Institute, which has been an active champion of religious liberty, and which followed up on their testimony at the hearing last year by filing a 51-page report with the subcommittee last October. The Institute's report documented additional cases of hostility to religion in the public square, and noted the existence of a nationwide campaign to remove religious expressions from the public square—namely, liberal organizations in Washington that actively litigate against equal access for religious organizations in public schools, against school choice programs that give needy students equal access to parochial and nonsectarian schools alike, and against voluntary, student-led religious expression.

Thankfully, and despite the efforts of these organizations, we are starting to win the battle for religious liberty and against hostility to religious expression. The Court has upheld equal access for religious organizations on a number of recent occasions—albeit frequently by narrow, 5–4 majorities—including cases like Rosenberger, Good News Club, Zelman, and Mitchell. And thankfully, the Equal Access Act of 1984 has been affirmed, upheld, and enforced.

But the Equal Access Act applies only to postsecondary schools. It is time that equal access be extended to elementary schools as well, and that is why I introduce this legislation today. I know that Senators will be following closely the Supreme Court's consideration of the Ten Commandments cases and the people's right to display our nation's most revered documents in public squares across America. Regardless of the outcome of those cases. I hope that Senators will also support

this effort to extend equal access to all of our nation's public schools.

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. 483

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

SECTION 1. EQUAL ACCESS FOR ELEMENTARY SCHOOLS.

The Equal Access Act (20 U.S.C. 4071 et seq.) is amended—

(1) in section 802—

(A) in subsection (a), by inserting ''elementary school or'' after ''public''; and

(B) in subsection (b), by inserting ''elementary school or'' after ''public''; and

(2) in section 803, by adding at the end the following:

''(5) The term 'elementary school' means a public school that provides elementary education as determined by State law.''.

By Mr. WARNER (for himself and Ms. COLLINS):

S. 484. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

Mr. WARNER. Mr. President, today I am introducing legislation to provide some relief for our nation's retired Federal employees from the severe increases in Federal Employee Health Benefit Program (FEHBP) premiums. This measure extends premium conversion to Federal and military retirees, allowing them to pay their health insurance premiums with pre-tax dollars.

The increasing cost of health care is a critical issue, especially to retirees living on a fixed income. In 2005 premiums are expected to rise an average of 7.9 percent for the 8 million Federal employees, retirees and their families that are covered under the FEHBP. This legislation will help to ensure that more Federal and military retirees are able to continue their healthcare coverage with the FEHBP and supplemental TRICARE health insurance plans as premiums continue to rise.

In the fall of 2000 premium conversion became available to current Federal employees who participate in the Federal Employees Health Benefits Program. It is a benefit already available to many private sector employees. While premium conversion does not directly affect the amount of the FEHBP premium, it helps to offset some of the increase by reducing an individual's Federal tax liability.

Extending this benefit to Federal retirees requires a change in the tax law, specifically Section 125 of the Internal Revenue Code. This legislation makes the necessary change in the tax code.

Under the legislation, the benefit is concurrently afforded to our Nation's military retirees as well to assist with increasing health care costs.

A number of organizations representing Federal and military retirees are strongly behind this initiative, including the National Association of Retired Federal Employees, the Military Coalition, the Fleet Reserve Association, and the Association of the U.S. Army.

My support for this legislation spans three Congresses. In the 108th Congress, my premium conversion bill received considerable bipartisan support with 57 cosponsors. It is my sincere hope that this legislation will be passed by Congress this session. I encourage my colleagues to join me in supporting this critical legislation and show their support for our Nation's dedicated Federal civilian and military retirees. 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. 484

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

SECTION 1. PRETAX PAYMENT OF HEALTH INSURANCE PREMIUMS BY FEDERAL CIVILIAN AND MILITARY RETIREES.

(a) IN GENERAL.—Subsection (g) of section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by adding at the end the following new paragraph:

''(5) HEALTH INSURANCE PREMIUMS OF FEDERAL CIVILIAN AND MILITARY RETIREES.—

''(A) FEHBP PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an annuitant, as defined in paragraph (3) of section 8901, title 5, United States Code, with respect to a choice between the annuity or compensation referred to in such paragraph and benefits under the health benefits program established by chapter 89 of such title 5.

''(B) TRICARE PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an individual receiving retired or retainer pay by reason of being a member or former member of the uniformed services of the United States with respect to a choice between such pay and benefits under the health benefits programs established by chapter 55 of title 10, United States Code.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2. DEDUCTION FOR TRICARE SUPPLEMENTAL PREMIUMS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amounts paid during the taxable year by the taxpayer for insurance purchased as supplemental coverage to the health benefits programs established by chapter 55 of title 10, United States Code, for the taxpayer and the taxpayer's spouse and dependents.

''(b) COORDINATION WITH MEDICAL DEDUCTION.—Any amount allowed as a deduction under subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).''.

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by redesignating paragraph (19) (as added by section 703(a) of the American Jobs Creation Act of 2004) as paragraph (20) and by inserting after paragraph (20) (as so redesignated) the following new paragraph:

''(21) TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 224. TRICARE supplemental premiums or enrollment fees.

''Sec. 225. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. IMPLEMENTATION.

(a) FEHBP PREMIUM CONVERSION OPTION FOR FEDERAL CIVILIAN RETIREES.—The Director of the Office of Personnel Management shall take such actions as the Director considers necessary so that the option made possible by section 125(g)(5)(A) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period, afforded under section 8905(g)(1) of title 5, United States Code, which begins not less than 90 days after the date of the enactment of this Act.

(b) TRICARE PREMIUM CONVERSION OPTION FOR MILITARY RETIREES.—The Secretary of Defense, after consulting with the other administering Secretaries (as specified in section 1073 of title 10, United States Code), shall take such actions as the Secretary considers necessary so that the option made possible by section 125(g)(5)(B) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period afforded under health benefits programs established under chapter 55 of such title, which begins not less than 90 days after the date of the enactment of this Act.

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

S. 486. A bill to require the Secretary of the Navy to procure helicopters under the VH–3D presidential helicopter fleet replacement program that are wholly manufactured in the United States; to the Committee on Armed Services.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation with my colleague Senator DODD that requires that the helicopter fleet built for the President of the United States be made entirely in the United States by American workers using American parts.

This is how it has always been. And this is the way it should stay.

Since President Eisenhower first flew in 1957, American Presidents have logged more than a quarter of a million hours in American helicopters designated Marine One with an unblemished record of safety and performance.

But recently, the Navy chose a new helicopter to replace the current Presidential fleet that was designed overseas and will have substantial portions built overseas.

This model was chosen over another model that would have been wholly built in the United States. This decision is a blow to the pride of the American aviation industry and blows a hole in the wallet of American workers and taxpayers.

Let me make clear that with this bill we are not asking the Navy to pick a helicopter solely because it is American. The Presidential fleet must be made up of helicopters that offer superb performance and safety standards.

But when an American model meets those standards, as was the case with the bids for Marine One, common sense dictates that we ''Buy American.''

With this contract we are putting the American aviation industry at a long-term competitive disadvantage. The Marine One contract comes with millions of dollars in research money to develop new helicopter technologies. With the Navy's selection of a foreign competitor, these research dollars will now go overseas.

By subsidizing foreign aviation research—mostly in Europe, which already heavily subsidizes its aviation industry—we will be using American taxpayer dollars to make it harder for U.S. companies to stay competitive and compete in domestic and world markets.

With these kinds of disadvantages, we run the risk that we will become increasingly reliant on overseas suppliers of important military equipment, jeopardizing our national security.

Insisting that the American President fly in an American-made helicopter is not a unique or unusual consideration for a national leader.

The Prime Minister of Great Britain doesn't fly in an American helicopter, nor does the Prime Minister of Italy. They both fly in European helicopters. That's fine. They are supporting their workers, helping to sustain their industrial base, and sending a clear signal of national pride to their people.

We should do no less.

Let me stress, I am not seeking to exclude overseas companies from competing in U.S. markets or to exclude them from all military contracts. The United States has a long history of open markets and free and fair competition, and we should not back away from that.

But this is a unique case. We are talking about the most famous helicopter in the world. What message do we send when we outsource such a visible symbol of national pride to others? We send a message that ''Built in America'' is second-best.

This is just wrong.

American workers have been building and maintaining Presidential helicopters for over half a century. Their performance has been outstanding. We should not punish this service and dedication by using taxpayer dollars to send their jobs to someone else.

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. 486

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

SECTION 1. VH-3D PRESIDENTIAL HELICOPTER FLEET REPLACEMENT PROGRAM PROCUREMENT REQUIREMENT.

(a) IN GENERAL.—The Secretary of the Navy may not enter into a contract for the procurement of a helicopter under the VH-3D presidential helicopter fleet replacement program unless the contract requires the helicopter to be wholly manufactured in the United States from parts wholly manufactured in the United States.

(b) EXISTING CONTRACTS.—If a contract entered into after December 31, 2004, and before the date of the enactment of this section does not meet the requirements described in subsection (a), the Secretary of the Navy shall terminate such contract.

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

S. 488. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with my colleague Senator COLLINS, to introduce legislation, the Commercial Truck Highway Safety Demonstration Program Act, to create a safety pilot program for commercial trucks.

This bill would authorize a safety demonstration program in my home State of Maine that could be a model for other States. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal interstate truck weight limit of 80,000 pounds.

I believe that safety must be the No. 1 priority on our roads and highways, and I am very concerned that the existing interstate weight limit has the unintended impact of forcing commercial trucks onto State and local secondary roads that were never designed to safely handle such heavy commercial trucks. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from Federal weight limits on the Maine Turnpike, the 100-mile section of Maine's interstate in the southern portion of the State, and it was signed into law as part of TEA–21. I have also shared my concerns with the Department of Transportation and the Senate Environment and Public Works Committee to urge them to work with me in an effort to address my concern with the safety of my constituents.

In addition, the Maine Department of Transportation has nearly concluded a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, in order to secure the data necessary to ensure that commercial trucks operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits, 80,000 pounds, on the Interstate System, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads don't. In fact, lower weight limits only encourage more trucks to operate on these very roads, only heightening the wear and tear as well as increasing the potential danger to both drivers and pedestrians.

The legislation I am submitting today would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, States, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Mr. President, I rise to join with my senior colleague from Maine in sponsoring the Commercial Truck Highway Safety Demonstration Program Act, an important bill that addresses a significant safety problem in our State.

Under current law, trucks weighing 100,000 pounds are allowed to travel on Interstate 95 from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, trucks are forced off Interstate 95, which proceeds north to Houlton. Heavy trucks are forced onto smaller, secondary roads that pass through cities, towns and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's interstate highway system forces trucks traveling to and from destinations in these States and provinces to use Maine's State and local roads, nearly all of which have two lanes, rather than four. Consequently, many Maine communities along the interstate see substantially more truck traffic than would

otherwise be the case if the weight limit were 100,000 pounds for all of Maine's interstate highways.

The problem Maine faces due to the disparity in truck weight limits affects many communities and is clearly evident in the eastern Maine cities of Bangor and Brewer. In this region, a 2-mile stretch of Interstate 395 connects two major State highways that carry significant truck traffic across Maine. I–395 affords direct and safe access between these major corridors, but because of the existing Federal truck weight limit, many heavy trucks are prohibited from using this multi-lane, limited access highway.

Instead, these trucks, which sometimes carry hazardous materials, are required to maneuver through the downtown portions of Bangor and Brewer on two-lane roadways. Truckers are faced with two options; the first is a 3.5-mile diversion through downtown Bangor that requires several very difficult and dangerous turns. The second route is a 7.5-mile diversion that includes 20 traffic lights and requires travel through portions of downtown Bangor, as well. Congestion is a significant issue and safety is seriously compromised as a result of these required diversions.

A recent study, conducted by the Maine Department of Transportation, found that the accident rate between 2000 and 2003—per 100 million vehicle miles traveled—was more than four times higher on two-lane roads than on the Maine Turnpike, which had four lanes at the time of the study. A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce highway miles, as well as the travel times necessary to transport freight through Maine, resulting in safety, economic, and environmental benefits.

Moreover, Maine's extensive network and local roads would be better preserved without the wear and tear of heavy truck traffic. Most important, however, a uniform truck weight limit will keep trucks on the interstate where they belong, rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the Interstate Highway System would be set at 100,000 pounds for 3 years. During the waiver period, the Secretary would study the impact of the pilot program on safety and would receive the input of a panel on which State officials, and representatives from safety organizations, municipalities, and the commercial trucking industry would serve. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's interstate highway system.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and onto local roads. The legislation Senator SNOWE and I are introducing is a commonsense approach to a significant safety problem in my State. I hope my colleagues will support passage of this important legislation.

By Mr. ALEXANDER (for himself, Mr. KYL, and Mr. CORNYN):

S. 489. A bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes; to the Committee on the Judiciary.

Mr. ALEXANDER. 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. 489

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 ''Federal Consent Decree Fairness Act''.

SEC. 2. FINDINGS.

Congress finds that:

(1) Consent decrees are for remedying violations of rights, and they should not be used to advance any policy extraneous to the protection of those rights.

(2) Consent decrees are also for protecting the party who faces injury and should not be expanded to apply to parties not involved in the litigation.

(3) In structuring consent decrees, courts should take into account the interests of State and local governments in managing their own affairs.

(4) Consent decrees should be structured to give due deference to the policy judgments of State and local officials as to how to obey the law.

(5) Whenever possible, courts should not impose consent decrees that require technically complex and evolving policy choices, especially in the absence of judicially discoverable and manageable standards.

(6) Consent decrees should not be unlimited, but should contain an explicit and realistic strategy for ending court supervision.

SEC. 3. LIMITATION ON CONSENT DECREES.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''§ 1660. Consent decrees

''(a) DEFINITIONS.—In this section:

''(1) The term 'consent decree'—

''(A) means any final order imposing injunctive relief against a State or local government or a State or local official sued in their official capacity entered by a court of the United States that is based in whole or part upon the consent or acquiescence of the parties;

''(B) does not include private settlements; and

''(C) does not include any final order entered by a court of the United States to implement a plan to end segregation of students or faculty on the basis of race, color, or national origin in elementary schools, secondary schools, or institutions of higher education.

''(2) The term 'special master' means any person, regardless of title or description given by the court, who is appointed by a court of the United States under rule 53 of the Federal Rules of Civil Procedure, rule 48 of the Federal Rules of Appellate Procedure, or similar Federal law.

''(b) LIMITATION ON DURATION.—

''(1) IN GENERAL.—A State or local government or a State or local official, or their successor, sued in their official capacity may file a motion under this section with the court that entered a consent decree to modify or vacate the consent decree upon the earlier of—

''(A) 4 years after a consent decree is originally entered by a court of the United States, regardless if the consent decree has been modified or reentered during that period; or

''(B) in the case of a civil action in which—

''(i) a State is a party (including an action in which a local government is also a party), the expiration of the term of office of the highest elected State official who authorized the consent of the State in the consent decree; or

''(ii) a local government is a party and the State encompassing the local government is not a party, the expiration of the term of office of the highest elected local government official who authorized the consent of the local government to the consent decree.

''(2) BURDEN OF PROOF.—With respect to any motion filed under paragraph (1), the burden of proof shall be on the party who originally filed the civil action to demonstrate that the continued enforcement of a consent decree is necessary to uphold a Federal right.

''(3) RULING ON MOTION.—Not later than 90 days after the filing of a motion under this subsection, the court shall rule on the motion.

''(4) EFFECT PENDING RULING.—If the court has not ruled on the motion to modify or vacate the consent decree during the 90-day period described under paragraph (3), the consent decree shall have no force or effect for the period beginning on the date following that 90-day period through the date on which the court enters a ruling on the motion.

''(c) SPECIAL MASTERS.—

''(1) COMPENSATION.—The compensation to be allowed to a special master overseeing any consent decree under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A of title 18, for payment of court-appointed counsel, plus costs reasonably incurred by the special master.

''(2) TERMINATION.—In no event shall the appointment of a special master extend beyond the termination of the relief granted in the consent decree.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''§ 1660. Consent decrees.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act and apply to all consent decrees regardless of—

(1) the date on which the final order of a consent decree is entered; or

(2) whether any relief has been obtained under a consent decree before the date of enactment of this Act.

AMENDMENTS SUBMITTED AND PROPOSED

SA 15. Mr. AKAKA (for himself, Mr. DURBIN, Mr. LEAHY, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 256, to amend